

Applicant Details

First Name	Ana Pajar
Last Name	Blinder
Citizenship Status	U. S. Citizen
Email Address	ablinder102@gmail.com
Address	<div> <div>Address</div> <div> <div>Street</div> <div>80 Dekalb Ave, Apt 27c</div> <div>City</div> <div>Brooklyn</div> <div>State/Territory</div> <div>New York</div> <div>Zip</div> <div>11201</div> <div>Country</div> <div>United States</div> </div> </div>
Contact Phone Number	2014142659

Applicant Education

BA/BS From	University of Pennsylvania
Date of BA/BS	May 2015
JD/LLB From	Northwestern University School of Law
	http://www.law.northwestern.edu/
Date of JD/LLB	May 18, 2022
Class Rank	School does not rank
Law Review/Journal	Yes
Journal(s)	Journal of Criminal Law and Criminology
Moot Court Experience	No

Bar Admission

Prior Judicial Experience

Judicial Internships/ Externships	Yes
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Post-graduate Judicial Law Clerk **Yes**

Specialized Work Experience

Recommenders

Nadler, Janice
jnadler@law.northwestern.edu
(312) 503-0659

Van Brunt, Alexa
a-vanbrunt@law.northwestern.edu
(312) 503-1336

Kugler, Matthew
matthew.kugler@law.northwestern.edu
(312) 503-3568

This applicant has certified that all data entered in this profile and any application documents are true and correct.

ANA PAJAR BLINDER

80 Dekalb Avenue, Brooklyn, NY 11201 • ablinder102@gmail.com • 201-414-2659

May 5, 2023

The Honorable Vernon S. Broderick
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Dear Judge Broderick,

I am a litigation associate at Sidley Austin LLP writing to apply for a clerkship position for the 2025 term. As a first-generation American, I am very interested in clerking for diverse judges. Further, as an aspiring public servant, Your Honor's background in the public sector is another reason I hope to clerk in your chambers.

I do not have the network or background that makes a clerkship an expected part of my trajectory. But I can offer something valuable to your chambers. My parents immigrated to the United States shortly before my birth, and my navigation of this profession comes with both challenges and perspective. During my first pro bono trial at Sidley, my heritage helped me better communicate with our client, whose cultural background mirrored my own. Given the unique amalgam of viewpoints and culture I was exposed to from a young age, I engage with legal viewpoints with a critical but fair-minded lens.

In my first few months at Sidley, I drafted various pretrial motions, argued a motion to compel discovery, and took a witness in that pro bono civil rights trial in a federal district court. I also drafted a letter-motion to dismiss and various discovery motions in a commercial litigation matter in the same federal district court. Though new to the profession, I take initiative and aid my team through all stages of litigation, from early briefing to discovery and trial preparation.

In law school I continued to shape my legal research and writing skills through participation in the Civil Rights Litigation Clinic and the Journal of Criminal Law and Criminology. I wrote a major portion of a brief submitted to the Circuit Court of Cook County in a case concerning the incommunicado detention of protestors. My journal Note on the need for a First Amendment framework when assessing the constitutionality of government surveillance of mass protests was also published in JCLC's Volume 111, Issue 4.

Thank you for your consideration.

Respectfully,
Ana Pajar Blinder

ANA PAJAR BLINDER

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EXPERIENCE

Sidley Austin LLP, New York, NY

Litigation Associate, October 2022 – present

- Briefed various pretrial motions, argued motion to compel discovery, and took a witness in pro bono civil rights case
- Conduct legal research, aid with briefing, and assist with deposition preparation in commercial litigation matters

U.S. Department of Justice, Civil Division, Federal Programs Branch, Washington, D.C.

Legal Intern, July 2021 – August 2021

- Performed legal research for defensive government civil litigation and prepared draft briefs on motions

Sidley Austin LLP, New York, NY

Summer Associate, May 2021 – July 2021

- Briefed cases for oral argument preparation in civil litigation matter, conducted legal research contributing to motion for summary judgment, and drafted privacy policy for corporate client

United States District Court for the District of New Jersey, Newark, NJ

Judicial Intern to the Honorable Esther Salas, June 2020 – August 2020

- Performed legal research and writing for civil and criminal cases; proofed and cite-checked draft opinions and orders
- Prepared draft opinions on a motion to dismiss involving § 1983 claims; a class action certification motion grounded in alleged constitutional violations; and a motion to dismiss on jurisdictional and preemption grounds

American Civil Liberties Union (ACLU), New York, NY

Communications Strategist, April 2018 – August 2019

- Implemented strategic communications plan on ACLU's litigation and advocacy surrounding women's rights, immigrants' rights, and criminal justice reform
- Managed engagement strategy for digital, fundraising, development, coalition partners, and advocacy departments

National Football League (NFL), New York, NY

Communications and Social Responsibility Coordinator, November 2016 – April 2018

- Developed traditional and crisis communication strategies for key units within the social responsibility group
- Prepared senior leadership, corporate and nonprofit partners, and third-party advocates for media engagements
- Planned and executed communications strategies, media operations, and community impact/philanthropic legacy programs for events including Super Bowl, Draft, Kickoff, and Pro Bowl
- Supported cross-organizational strategic planning and development of corporate social responsibility initiatives

Rotational Program Analyst, July 2015 – November 2016

- Developed traditional and crisis communication strategies for key units within the social responsibility group
- Identified trends, insights, and best practices to generate revenue for NFL clubs

EDUCATION

Northwestern Pritzker School of Law, Chicago, IL

Juris Doctor, May 2022 (GPA: 3.85)

- JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY, Diversity and Inclusion Editor
 - Note: *Don't (Tower) Dump on Freedom of Association: Protest Surveillance Under the First and Fourth Amendments* (published in JCLC Volume 111, Issue 4)
- Teaching Assistant, Criminal Law, Professor Janice Nadler, Fall 2020
- Civil Rights Litigation Clinic, Student Attorney, Fall 2020 – Spring 2022
- Latinx Law Students Association, Vice President of Academic Affairs

University of Pennsylvania, Philadelphia, PA

Bachelor of Arts in Communication, May 2015

ADDITIONAL INFORMATION

Language Skills: Portuguese (Fluent) and Spanish (Proficient)

Interests: Crossword puzzles, bossa nova, traveling, geopolitical non-fiction, writing, 90s hip-hop

THE NAME OF THE UNIVERSITY IS PRINTED IN WHITE
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Northwestern University
633 Clark Street
Evanston, IL 60208
United States

Name: Blinder, Ana
Student ID: 3233540

Page 1 of 2

School of Law Official Transcript

Print Date: 01/14/2023
Staff Member, Journal of Criminal Law and Criminology (2020-21)
Diversity & Inclusion Editor, Journal of Criminal Law and Criminology (2021-22)

Degrees Awarded

Degree: Juris Doctor
Confer Date: 06/17/2022
Degree Honors: Cum Laude
Plan: Juris Doctor Major

Academic Program History

Program: Juris Doctor
07/26/2019: Active in Program
06/17/2022: Completed Program

Beginning of Law Record

2019 Fall (09/02/2019 - 12/19/2019)

Course	Description	Attempted	Earned	Grade	Points
BUSCOM 510	Contracts	3.000	3.000	A-	11.010
Instructor:	Jide Nzeilbe				
CRIM 520	Criminal Law	3.000	3.000	A-	11.010
Instructor:	Janice Nadler				
LAWSTUDY 540	Communication & Legal Reasoning	2.000	2.000	A-	7.340
Instructor:	Rebekah Holman				
LITARB 530	Civil Procedure	3.000	3.000	B+	9.990
Instructor:	James Pfander				
PPTYTORT 530	Property	3.000	3.000	B	9.000
Instructor:	Nadav Shoked				

		Attempted	Earned	GPA Units	Points
Term GPA	3.454	Term Totals	14.000	14.000	48.350
Cum GPA	3.454	Cum Totals	14.000	14.000	48.350

2020 Spring (01/13/2020 - 05/07/2020)

Course	Description	Attempted	Earned	Grade	Points
CONPUB 500	Constitutional Law	3.000	3.000	CR	0.000
Instructor:	Heidi Kitrosser				
CONPUB 610	First Amendment	3.000	3.000	CR	0.000
Instructor:	Jason DeSanto				
CONPUB 695	International Criminal Law	3.000	3.000	CR	0.000
Instructor:	Marco Bocchese				
LAWSTUDY 541	Communication & Legal Reasoning	2.000	2.000	CR	0.000
Instructor:	Rebekah Holman				
PPTYTORT 550	Torts	3.000	3.000	CR	0.000
Instructor:	James Speta				

		Attempted	Earned	GPA Units	Points
Term GPA	0.000	Term Totals	14.000	14.000	0.000
A global health emergency during this term required significant changes to university operations that affected student enrollment and grading. Unusual enrollment patterns and grades during this period reflect the tumult of the time, not necessarily the work of individual students.					
Cum GPA	3.454	Cum Totals	28.000	28.000	48.350

2020 Summer (05/11/2020 - 08/15/2020)

Course	Description	Attempted	Earned	Grade	Points
CONPUB 647D	Practicum: Judicial	4.000	4.000	A-	14.680
Instructor:	Monica Llorente				

		Attempted	Earned	GPA Units	Points
Term GPA	3.670	Term Totals	4.000	4.000	14.680
Cum GPA	3.502	Cum Totals	32.000	32.000	63.030

2020 Fall (08/24/2020 - 12/17/2020)

Course	Description	Attempted	Earned	Grade	Points
CONPUB 661	Election Law	3.000	3.000	A	12.000
Instructor:	Michael Kang				
CRIM 610	Constitutional Crim Procedure	3.000	3.000	A+	12.990
Instructor:	Ronald Allen				
LAWSTUDY 500	Independent Study	3.000	3.000	A+	12.990
Instructor:	Matthew Kugler				
LITARB 600P	Leg. Ethics: Public Int.&Gov	2.000	2.000	B+	6.660
Instructor:	Wendy Muchman				
LITARB 721	Clinic: Civil Rights Litigation	4.000	4.000	A	16.000
Instructor:	Locke Bowman				
	David Shapiro				
	Vanessa del Valle				
	Alexa Van Brunt				

Term Honor: Dean's List

		Attempted	Earned	GPA Units	Points
Term GPA	4.043	Term Totals	15.000	15.000	60.640
Cum GPA	3.748	Cum Totals	47.000	47.000	123.670

NORTHWESTERN UNIVERSITY PRITZKER SCHOOL OF LAW

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Becky McAlister, Registrar

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Northwestern University
633 Clark Street
Evanston, IL 60208
United States

Name: Blinder, Ana
Student ID: 3233540

Page 2 of 2

School of Law Official Transcript

2021 Spring (01/11/2021 - 05/06/2021)

Course	Description	Attempted	Earned	Grade	Points
LAWSTUDY 593	Perspectives on Lawyering	2.000	2.000	A	8.000
Instructor:	Wendy Muchman				
LAWSTUDY 620	Advanced Legal Research	2.000	2.000	A	8.000
Instructor:	Jamie Sommer				
LAWSTUDY 710	Privacy Law	3.000	3.000	A+	12.990
Instructor:	Matthew Kugler				
LITARB 635	Evidence	3.000	3.000	A-	11.010
Instructor:	Susan Provenzano				
LITARB 721	Clinic: Civil Rights Litigation	4.000	4.000	A	16.000
Instructor:	Locke Bowman				
	David Shapiro				
	Vanessa del Valle				
	Alexa Van Brunt				

Term Honor: Dean's List

		Attempted	Earned	GPA Units	Points
Term GPA	4.000 Term Totals	14.000	14.000	14.000	56.000
Cum GPA	3.823 Cum Totals	61.000	61.000	47.000	179.670

2021 Fall (08/30/2021 - 12/16/2021)

Course	Description	Attempted	Earned	Grade	Points
CONPUB 764	Saving the News	1.000	1.000	A	4.000
Instructor:	Martha Minow				
LITARB 605	Trial Advocacy I/TA	4.000	4.000	A-	14.680
Instructor:	Steven Lubet				
LITARB 721	Clinic: Civil Rights Litigation	4.000	4.000	A	16.000
Instructor:	David Shapiro				
	Locke Bowman				
	David Shapiro				
	Vanessa del Valle				
	Alexa Van Brunt				
PPTYTORT 650	Intellectual Property	3.000	3.000	A-	11.010
Instructor:	David Schwartz				

Term Honor: Dean's List

		Attempted	Earned	GPA Units	Points
Term GPA	3.808 Term Totals	12.000	12.000	12.000	45.690
Cum GPA	3.820 Cum Totals	73.000	73.000	59.000	225.360

2022 Spring (01/10/2022 - 05/05/2022)

Course	Description	Attempted	Earned	Grade	Points
LITARB 721	Clinic: Civil Rights Litigation	4.000	4.000	A	16.000
Instructor:	Locke Bowman				
	David Shapiro				
	Vanessa del Valle				
	Alexa Van Brunt				
LITARB 896	Intensive Clinical Practice	8.000	8.000	A	32.000
Instructor:	Locke Bowman				
	David Shapiro				
	Vanessa del Valle				
	Alexa Van Brunt				

Term Honor: Dean's List

		Attempted	Earned	GPA Units	Points
Term GPA	4.000 Term Totals	12.000	12.000	12.000	48.000
Cum GPA	3.850 Cum Totals	85.000	85.000	71.000	273.360

End of School of Law Official Transcript

NORTHWESTERN UNIVERSITY PRITZKER SCHOOL OF LAW

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Becky McAlister, Registrar

Northwestern University Pritzker School of Law

375 East Chicago Avenue • Chicago, IL 60611 • PHONE: 312-503-8464

ACCREDITATION

Northwestern University is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools. Other professional, college, school, and departmental accreditations are listed here: http://www.registrar.northwestern.edu/academic_records/index.html

ACADEMIC CALENDARS

Pritzker School of Law operates on a traditional semester calendar consisting of two terms (Fall and Spring) each lasting 16 weeks, one Summer term lasting approximately 15 weeks, and one Winter Intersession term lasting approximately 3 weeks. Terms may include shorter sessions.

JDMBA students follow the university quarter calendar during their second year of enrollment. The quarter system consists of three quarters lasting approximately 10 weeks and one summer session lasting 10-11 weeks. Terms may include shorter sessions.

CREDIT

Pritzker School of Law uses a semester credit hour system. 1 unit of Quarter Credit earned in university courses outside the Law School and applied toward the law degree is shown as 2.5 Semester Credits.

EXPLANATION OF GRADES AND GRADE POINTS

The following systems of grading academic performance are used at the Law School. For systems used from 1968 – 2000, please visit <http://www.law.northwestern.edu/registrar/gradingpolicy/transcript-supplement> (*For systems prior to entrance in 1968, please inquire.*)

Since 2000: Beginning in the fall of 2000, grades and their numerical equivalent on a 4.33 scale are given below:

A+/4.33, A/4.0, A-/3.67, B+/3.33, B/3.0, B-/2.67, C+/2.33, C/2.0, D/1.0, F/0, I (Incomplete)/0

Fall 2000 – Summer 2017: Mandatory grade curve for all courses over 40 in enrollment:

A+/3-7%, A/12-15%, A-/10-15%, B+/15-30%, B/20-35%, B-/10-15%, C+/0-7.5%, C/0-7.5%, D&F/0-7%

Grade Points and Grades Used by Kellogg School of Management (non-executive MBA Programs, applies primarily to JDMBAs in their second year of enrollment)

A (Excellent)/4.0, B (Good)/3.0, C (Satisfactory)/2.0, D (Poor but passing)/1.0, F (Fail)/0.0, X (Missed final exam)/0.0, Y (Work Incomplete)/0.0

Since Fall 2017: Mandatory Grading Policy:

- First-Year Courses
 - In first-year required courses, other than Communication and Legal Reasoning (CLR), the mean will be 3.35, with a permitted range of 3.3 - 3.4. Faculty are also required to adhere to a mandatory distribution of no more than 5% A+ grades (rounded up) and at least 10% B- and below grades (rounded down).
 - In Communication and Legal Reasoning (CLR) and Common Law Reasoning courses, the mean will be 3.45, with a permitted range of 3.4 - 3.5.
- Upper-level doctrinal courses, including 1L Electives
 - In all upper-level doctrinal courses with enrollments of 13 or larger, the mean will be a 3.55, with a permitted range of 3.5 - 3.6. A doctrinal course is a lecture course in which the grade is primarily based on an exam.
- No other courses are subject to a mandatory mean or curve.

Class rank is not recorded or reported.

GRADE POINT AVERAGE (GPA)

All courses attempted are recorded on the transcript and used in the GPA calculation, including repeated course attempts. GPA is computed by taking the total grade points divided by the attempted units. CR (Credit), NC (No Credit), IP (In Progress), T (Transfer), K (Continued), NR (No Grade Reported) and W (Withdrawn) grades are not included in GPA calculations. Grades noted with an asterisk represent University courses completed outside the Law School, that are not part of a joint program, and are not counted in the GPA calculation.

To graduate, a student must convert all I, IP, and K grades to a credit-bearing grade and achieve a cumulative grade point average of 2.250 or higher.

STATUS

Students should be regarded as in good academic standing unless otherwise noted.

TRANSFER CREDIT

The Law School documents articulated transfer credit by listing the institution of record and a T grade for each approved course. Grades for work transferred from another institution are not recorded. If such grades are needed, the student must request a transcript directly from the awarding institution.



Office of the University Registrar

150 Franklin Building
3451 Walnut Street
Philadelphia, PA 19104-6270
Tel 215.898.6636
Fax 215.573.2076
www.upenn.edu/registrar

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Author Unknown: Lastly, one other possible message, Author Unknown, can have two possible meanings: The certificate is a self-signed certificate or has been issued by an unknown or untrusted certificate authority and therefore has not been trusted, or the revocation check could not complete. If you receive this message make sure you are properly connected to the internet. If you have a connection and you still cannot validate the digital certificate on-line, reject this document.

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If you require further information regarding the authenticity of this transcript, you may email or call the Office of the University Registrar at the University of Pennsylvania at transcripts@upenn.edu or 215.898.6636.

UNIVERSITY of PENNSYLVANIA

OFFICE OF THE UNIVERSITY REGISTRAR

Margaret Kio
University RegistrarRECORD OF
ID NUMBER
DATE OF ISSUEANA BLINDER
54660330
12/09/19

BIRTHDATE: 10/02/93

RECORD OF WORK DONE

[* * * * *]
[AT THE UNDERGRADUATE LEVEL]
[* * * * *]

* * * * * ACADEMIC PROGRAM * * * * *

Admitted From: MONTCLAIR KIMBERLEY

School: ARTS & SCIENCES

Division: COLLEGE OF ARTS & SCIENCES

Degree Program: BACHELOR OF ARTS

Major: COMMUNICATION

Minor: HISPANIC STUDIES

* * * * * DEGREES AWARDED * * * * *

05-18-15 BACHELOR OF ARTS
CUM LAUDE

* * * * * HONORS * * * * *

Dean's List 2014-15

* * * * * UNIVERSITY OF PENNSYLVANIA COURSE WORK * * * * *

Fall 2011 COLLEGE OF ARTS & SCIENCES

COMM	123	Critical Approaches to Popular Culture	1.00	CU	B-
HIST	102	From Freud to Oprah: The Rise and Fall of Psychology	1.00	CU	B+
PSYC	001	INTRO TO EXP PSYCH	1.00	CU	A-
WRIT	039	CAMUS	1.00	CU	B-
		Term Statistics:	4.00	CU	GPA 3.10
		Cumulative:	4.00	CU	GPA 3.10

Spring 2012 COLLEGE OF ARTS & SCIENCES

COMM	125	COMMUNICATION BEHAVIOR	1.00	CU	B
HIST	101	FRESH SEM: EUR PRE-1800: DREAM IN JEW CULT & TRAD	1.00	CU	B+
LING	110	INTRO TO LANGUAGE CHANGE	1.00	CU	A-
URBS	217	AMERICA IN THE 1960S	1.00	CU	B
		Term Statistics:	4.00	CU	GPA 3.25
		Cumulative:	8.00	CU	GPA 3.18

Fall 2012 COLLEGE OF ARTS & SCIENCES

ARTH	108	WORLD FILM HIST TO 1945	1.00	CU	A
COMM	226	INTRO TO POLITICAL COMM	1.00	CU	B-
MATH	170	IDEAS IN MATHEMATICS	1.00	CU	C
SPAN	212	ADV SPANISH SYNTAX	1.00	CU	A-
		Term Statistics:	4.00	CU	GPA 3.10
		Cumulative:	12.00	CU	GPA 3.15

(No further entries this column)

Spring 2013

AFST	225	AFRICAN LANG. & CULTURE	1.00	CU	A
COMM	130	MASS MEDIA & SOC	1.00	CU	B
GEOL	103	Natural Disturbances and Human Disasters	1.00	CU	C+
		(Quantitative Data Analysis Course)			
SPAN	219	TEXTS AND CONTEXTS	1.00	CU	A-
		Term Statistics:	4.00	CU	GPA 3.25
		Cumulative:	16.00	CU	GPA 3.18

Fall 2013

COMM	298	NATIONAL CINEMAS: AESTHETICS AND REPRESENTATION IN FRENCH CINEMA	1.00	CU	B
COMM	298	MEDIA, SOCIETY, POLITICS	1.00	CU	A-
STSC	298	BUSINESS, ETHICS, AND THE LAW	1.00	CU	B-
WH	310	MARKETING AND DISTRIBUTION LAW	1.00	CU	B
		Term Statistics:	4.00	CU	GPA 3.10
		Cumulative:	20.00	CU	GPA 3.16

Spring 2014

COMM	339	CRIT PERSPECT IN JOURNAL	1.00	CU	A-
COMM	395	COMM & THE PRESIDENCY	1.00	CU	A
PSCI	183	AMERICAN POLIT THOUGHT	1.00	CU	A-
SPAN	388	INTRODUCTION TO SPANISH CINEMA	1.00	CU	A
SPAN	396	Goddesses, Nuns and Warriors: Women in Mexican History	1.00	CU	A-
		Term Statistics:	5.00	CU	GPA 3.82
		Cumulative:	25.00	CU	GPA 3.29

Fall 2014

CINE	202	TOPICS FILM STUDIES: ROMANTIC COMEDY	1.00	CU	A
CINE	232	TOPICS IN BRAZILIAN CULT: POPULAR CULTURE AND POLITICAL CONTEXT IN BRAZILIAN CONTEMPORARY CINEMA	1.00	CU	A
COMM	346	COVERING THE MIDDLE EAST	1.00	CU	A-
SPAN	386	STUDIES IN SPAN CULTURE: Spanish Culture and the Economic Crisis	1.00	CU	A
		Term Statistics:	4.00	CU	GPA 3.93
		Cumulative:	29.00	CU	GPA 3.38

(No further entries this column)

PAGE 1 OF 2

TRANSLUCENT GLOBE ICONS MUST BE VISIBLE FROM BOTH SIDES OF TRANSCRIPT WHEN HELD TOWARD LIGHT SOURCE

UNIVERSITY of PENNSYLVANIA

OFFICE OF THE UNIVERSITY REGISTRAR

Margaret Kio
University Registrar

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[* * * * *]
[AT THE UNDERGRADUATE LEVEL]
[* * * * *]

* * * * * UNIVERSITY OF PENNSYLVANIA COURSE WORK * * * * *
(Continued from previous page)

Spring 2015 COLLEGE OF ARTS & SCIENCES
COMM 399 INDEPENDENT STUDY 1.00 CU A
FNAR 340 DIGITAL PHOTOGRAPHY 1.00 CU A-
PRTG 240 Topics in Luso-Brazilian Culture:
Society and Visual Arts 1.00 CU A
SOCI 120 SOCIAL STATISTICS 1.00 CU A-
(Quantitative Data Analysis Course)
Term Statistics: 4.00 CU GPA 3.85
Cumulative: 33.00 CU GPA 3.44
Equivalent Credit: 1.00 CU
Total Credit: 34.00 CU

* * * * * PENN EQUIVALENT CREDIT * * * * *
Advanced Placement Credit: SPAN 210 1.00 CU
Total Penn Equivalent Credit Awarded: 1.00 CU

* * * * * NO OFFICIAL ENTRIES BEYOND THIS POINT * * * * *

THE UNIVERSITY NAME APPEARS IN WHITE PRINT ACROSS THE FACE OF THIS RECORD

EXPLANATORY LEGEND AND AUTHENTICITY STATEMENT APPEARS ON REVERSE SIDE



TRANSCRIPT INTERPRETATION

GENERAL INFORMATION

The official signature of the Registrar is white and appears on the front of this document in the upper right. Reject document as official if signature is distorted.

Course Numbering System

1-399	Undergraduate courses
400-499	Mixed courses primarily for Undergraduate students
500-599	Mixed courses primarily for Graduate students
600-989	Graduate courses
990-999	Graduate individual study (thesis/dissertation) courses

Course Units, Semester Hours and Credit Hours

Credit information appears to the right of the course information on the transcript.

Effective Spring 2014, a course unit should be converted to Semester Hours at a ratio of 1:4. Previous to Spring 2014 a course unit should be converted to Semester Hours at a ratio of 1:3.

A course unit (CU) generally represents one course that meets for 3 hours per week of class time, 4 hours of laboratory, or 5 hours of class time in beginning language courses, in a course that lasts for one term (semester).

A semester hour (SH) is defined as one hour per week of class time per term, or equivalent in other course-related activities.

Courses for which no credit is awarded appear with parentheses around their credit value, for example (1.00).

Penn Equivalent Credit is added to the credit total under the last term appearing on the transcript. It includes internal and external transfer credit, advanced placement credit, and credit by examination.

An H or GH preceding the course number indicates an honors course.

Free-form text included in current transcripts is concluded by §.

At the end of the transcript message NO OFFICIAL ENTRIES BEYOND THIS POINT appears.

Key to Grades

Term and Cumulative Averages

Not all schools use grade-point averages on the transcript. When averages appear, they are calculated according to this scale (except for the School of Dental Medicine):

A* 5.0	B+ 3.3	C+ 2.3	D+ 1.3
A+ 4.0	B 3.0	C 2.0	D 1.0
A 4.0	B- 2.7	C- 1.7	D- 0.7
A- 3.7			F 0.00

Key to Wharton Graduate Grades, Effective Summer 2006

A+ 4.00	B+ 3.33	C+ 2.33	D+ 1.33
A 4.00	B 3.00	C 2.00	D 1.00
A- 3.67	B- 2.67	C- 1.67	D- 0.67
			F 0.00

INTERPRETING GRADES

The various schools and divisions of the University use different grading systems. The first section of the transcript, ACADEMIC PROGRAM, includes school division, and degree information. Find the table that corresponds to that information below. Exceptions will be noted in the appropriate table. For all schools NR = no grades reported for course and GR = no grade reported for student.

Table 1

Annenberg School of Communications

Graduate Arts & Sciences

Graduate School of Education

School of Design, formerly known as Graduate School of Fine Arts
Ph.D. programs – All PhD programs and School of Engineering and applied sciences Graduate and executive masters programs, effective Spring, 2003 (see Table 3 for data prior to Spring 2003)

Law Students, when taking courses outside the Law School: otherwise see Table 5 & Table 6

A+,A,A-	Distinguished
B+,B,B-	Good (in Annenberg, B- = Unsatisfactory)
C+,C,C-	Unsatisfactory
D+,D	Poor
D-	Poor (not used for Grad. Ed. Annenberg)
F	Failure
P	Pass = A+ to D- (not used for Ph.D. Annenberg, Fine Arts-Harrisburg)
S	Satisfactory progress (not used for Law students)
U	Unsatisfactory (not used for Law students)
I	Incomplete
I*	Permanent Incomplete (Ph.D. only)
W	Withdrew (Ph.D., Annenberg, Fine Arts Harrisburg only)
AUD	Audit (not used for Law students)

Table 2

College Arts & Sciences, undergraduate

College of General Studies

College of Liberal and Professional Studies

Summer Sessions

School of Nursing, undergraduate (effective Fall, 1994)

Wharton Evening School (effective Fall, 1994)

Wharton Graduate School (effective Summer, 2006)

Wharton School, undergraduate (effective Fall, 1994)

School of Engineering and Applied Science, undergraduate

A+	Distinguished
A,A-	Excellent
B+,B,B-	Good
C+,C,C-	Average
D+,D	Below Average
F	Failure
P	Pass = A+ to D
S	Satisfactory progress
U	Unsatisfactory
I	Incomplete
II	Extended Incomplete (College Only)
I*	Permanent Incomplete
W	Withdrew
AUD	Audit
X	Academic Violation (CGS, Nursing & Engineering)

Table 3

School of Engineering and Applied Science –

Undergraduates through Fall, 1996 (see Table 1 for data effective Spring, 1997)

Graduate Programs & Executive Management Programs through Fall, 2002 (see Table 1 for data effective Spring, 2003)

School of Nursing (through Summer, 1994) except for Ph.D. programs (see Table 1)

A	Distinguished
B	Good
C	Average (in graduate programs, C = Unsatisfactory)
D	Below Average (in graduate programs, D = Poor)
F	Failure
P	Pass = A+ to D
S	Satisfactory progress
U	Unsatisfactory
I	Incomplete
W	Withdrew
AUD	Audit
X	Academic Violation (undergraduate only)

Table 4

Dental School

A	Distinguished
B, B+	Good
C, C+	Average
E	Exempt
F	Failure
F/C	Fail then Pass – Repeated Exams
H	Honors
I	Incomplete
IW	Incomplete (Withdrew)
P	Pass

Table 5

Law School (through Summer, 1995) except for courses outside the Law school (see Table 1)

O	Outstanding	These grades apply to first year courses in Professional Responsibility
S	Satisfactory	
U	Unsatisfactory	
DD	Distinguished	
E	Excellent	
G	Good	
Q	Qualified	
U	Unsatisfactory, with credit	
UNC	Unsatisfactory, no credit	
F	Failure	
P	Pass	
I	Incomplete	
W	Withdrew	
CR	Credit	

Table 6

Law School (effective Fall, 1995) except for courses outside the Law school (see Table 1)

A+	Distinguished
A,A-	Excellent
B+,B,B-	Good
C	Average
CR	Credit
F	Failure
FNC	Failure – No Credit
H	Honors
I	Incomplete
P	Pass
S	Satisfactory Progress
W	Withdrew

Table 7

School of Social Policy and Practice (formerly known as School of Social Work, DSW) except DSW program (see Table 8) and Ph.D. program (see Table 1).

CR	Credit (Passed = B or better at graduate level)
F	Failure
NCR	Non-Credit course
I	Incomplete
W	Withdrew
WF	Withdrew, Failing
P	Pass

Table 8

School of Social Policy and Practice (formerly known as School of Social Work, DSW) (through Summer, 2002).

A	Distinguished
B	Good
C	Unsatisfactory
F	Failure
I	Incomplete
W	Withdrew (Social Work doctoral only)
WF	Withdrew Failing, (Social Work doctoral only)
AUD	Audit (Social Work doctoral only)

Table 9

School of Social Policy and Practice (formerly known as School of Social Work, DSW) (effective Fall, 2002).

A+	Distinguished
A,A-	Excellent
B+,B,B-	Good
C+,C,C-	Average
D	Below Average
F	Failure
CR	Credit (Passed = B or better)
NCR	Non-Credit course
I	Incomplete
W	Withdrew

Table 10

Wharton Evening School (through Summer, 1994)

Wharton School, undergraduate (through Summer, 1994)

A*	Distinguished
A	Excellent
B	Good
C	Average
D	Below Average
F	Failure
P	Pass = A+ to C (Wharton courses only, not given in Evening School)
I	Incomplete
W	Withdrew
AUD	Audit
NC	No credit (not given in Evening School)
X	Academic Violation

Table 11

Wharton School, Executive MBA – (through Spring, 2006)

Wharton School, graduate except for Ph.D. programs (see Table 1)

DS	Distinguished
HP	High Pass
P	Pass
I	Incomplete
AUD	Audit
NC	No Credit

NORTHWESTERN PRITZKER SCHOOL OF LAW

May 05, 2023

The Honorable Vernon Broderick
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 415
New York, NY 10007-1312

Dear Judge Broderick:

I am writing to recommend Ana Pajar Blinder for a judicial clerkship. I first met Ana when she was a student in my Criminal Law class during the Fall 2019 semester. Ana demonstrated that she is a strong student, always well prepared for class, and ready to volunteer for discussion. Her contributions were consistently insightful, and she had a positive impact on class discussion. We spoke frequently throughout the semester, usually during office hours, where she would pose insightful questions. She submitted a well-written and strongly reasoned exam and did well in the course.

I was so impressed with Ana's performance in the course that I invited her to serve as a teaching assistant for Criminal Law in Fall 2020. We met weekly to discuss the lectures, assignments, and quizzes. Ana's input was crucial in my development of weekly quiz assessments – she proofread the questions carefully and highlighted for me places where ambiguities could give rise to student confusion. Ana met regularly with students in the class to provide academic support as well as crucial collegial support during a semester when classes were taught entirely remotely. As a teaching assistant for Criminal Law, Ana was a reliable, congenial resource for the students enrolled in the course, and a valuable source for me to get a sense of the students' understanding.

Prior to attending law school, Ana was a communications professional in the National Football League. She worked in crisis management, and she has a good knack for strategic thinking and a familiarity and comfort with a fast-paced work environment. In addition, Ana already has experience working as a judicial intern where she was in the mix in chambers assisting with research, writing, and proofing decisions and orders.

I believe that Ana Pajar Blinder's sharp intellect, diligence, and strong writing skills make her an excellent candidate for judicial clerk in your chambers. I recommend her highly and without reservation. If you have any questions, please feel free to contact me at 312-503-3228.

Respectfully,

Janice Nadler, JD/PhD
Nathaniel L. Nathanson Professor of Law
Northwestern Pritzker School of Law

Janice Nadler - jnadler@law.northwestern.edu - (312) 503-0659

NORTHWESTERN PRITZKER SCHOOL OF LAW

May 05, 2023

The Honorable Vernon Broderick
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 415
New York, NY 10007-1312

Dear Judge Broderick:

I am writing to strongly recommend Ana Blinder for a judicial clerkship. I have supervised and worked closely with Ana over the past year as part of the MacArthur Justice Center's Civil Rights Litigation Clinic at Northwestern Pritzker School of Law, of which I am the director. Ana is a hardworking and dedicated advocate, who intends to pursue a legal practice with a social justice focus. She would be an asset to your chambers.

For the past year, Ana has made important contributions to MacArthur's casework, including on groundbreaking litigation. Ana deftly drafted responses to motions to dismiss in a state civil rights case challenging the City of Chicago's failure to provide access to attorneys for people in police custody—a challenge to “incommunicado detention.” She spearheaded legal research on issues of justiciability and the contours of the Illinois Civil Rights Act, which provides relief to litigants who can show disparate impacts in the administration of government programs. She assisted in preparing for depositions in a wrongful conviction damages action against Chicago police detectives. And in furtherance of her interest in government surveillance, Ana conducted legal research to develop litigation strategies challenging “ShotSpotter,” a ubiquitous gunshot detection technology used by the Chicago police. Outside of clinic, in her law school summers, Ana developed proficiency in litigation through a judicial externship and as a legal intern at the Department of Justice's Civil Division. In short, as a rising third year student, Ana has already garnered extensive experience as a legal advocate.

Ana is dedicated to a career in the public interest, and she hopes to return to the ACLU (where she worked prior to law school) as an attorney in its privacy program. A clerkship would provide Ana with a solid foundation to pursue a career promoting civil and human rights.

Finally, Ana is a warm, funny, and forthright person. I very much enjoyed working with her on a personal level; I have no doubt Ana's co-clerks and other staff in the office would feel the same. I welcome the opportunity to speak with you more about Ana Blinder. Please feel free to contact me at 312-503-1336 or a-vanbrunt@law.northwestern.edu. Thank you for your consideration.

Respectfully,

Alexa Van Brunt

Clinical Professor of Law
Director, MacArthur Justice Center Civil Rights Litigation Clinic
Northwestern Pritzker School of Law

Director, Illinois Office
Roderick and Solange Macarthur Justice Center

Alexa Van Brunt - a-vanbrunt@law.northwestern.edu - (312) 503-1336

NORTHWESTERN PRITZKER SCHOOL OF LAW

May 05, 2023

The Honorable Vernon Broderick
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 415
New York, NY 10007-1312

Dear Judge Broderick:

I am writing this letter of recommendation on behalf of Ana Blinder. Over the last year, Ana has greatly impressed me as an intelligent and hardworking person with great attention to detail. I have no doubt that she will be an excellent clerk, and I very strongly recommend her.

I first met Ana when she did an independent study with me during the Fall of 2020. Normally I only do independent studies with students whom I have previously had in a class, but I bent that rule for Ana because she had a particularly interesting topic: the constitutional implications of surveillance at political protests. Using relatively basic investigative tools – cell tower monitoring in particular – it is possible to readily track who attends political protests. Though this monitoring during a normal criminal investigation would not raise problems under the Fourth Amendment, Ana thought that there could be problems under the First Amendment.

Addressing this concern required Ana to synthesize several complicated areas of First and Fourth Amendment doctrine. She needed to tease out the rules surrounding national security surveillance and understand the various procedural reasons that courts have avoided reaching the merits of challenges to prior programs. She needed to think carefully about older cases applying the First Amendment to state government programs monitoring the civil rights movement. And she needed to relate all of this to the technological tools of interest to her, particularly cellphone tower dumps – information requests that reveal which cellphones were in a certain area at a certain time.

In addition to being inherently interesting, this paper also gave me the opportunity to observe Ana's writing process. My independent study students submit multiple drafts and get extensive feedback. Ana responded extremely well to constructive suggestions. When I told her to consider the implications of some new case or procedural feature, it was thoughtfully incorporated in the next draft. When I expressed skepticism on points, they were either further supported or revised. The tightness and quality of her writing also improved from draft to draft. All of this shows me that, in addition to being a good writer and researcher, Ana is also open to improving on her already excellent skills. This strikes me as extremely valuable in someone at the early stages of her legal career.

Ana did extremely well with this project, earning an A+. Throughout the semester I was impressed with her intelligence, her work ethic, her insight, and her personality. Ana was extremely easy to work with and maintained good humor, even when suffering from 2L overload. She readily understood complex doctrines and "got" how procedural requirements were affecting substantive results. I was unsurprised that her journal decided to publish this project as a Note and am citing it in one of my own forthcoming pieces.

Following the independent study, Ana was a student in my Privacy Law class in Spring 2021. This was a doctrinal lecture-based class with many students. Nevertheless, Ana displayed a high level of engagement throughout the course and a sharp intellect. Though I cold called her on some of the material that overlapped with her prior paper – the Keith case, to be precise – Ana also was an active volunteer. I was very glad to have her in class, especially as this was a Zoom semester.

Ana earned the highest raw score on Privacy Law's final exam (taken by 52 students). This exam was blind graded; meaning that I had no idea whose exam I was grading when I went through the questions. I had actually decided to use the exam as a model answer – in addition to being good, it was also well-written – before I had unblinded the scores. Ana's background in the independent study was certainly relevant to some of what we covered in the course, but likely only two weeks out of thirteen. It is not like national security surveillance helps much with understanding HIPAA or data breach. Having formed a strongly positive opinion about Ana from advising her writing, I was extremely impressed to witness her translate that to exams as well.

Ana also has extensive experience outside the context of my classes. Her 2L performance has been extremely strong in both doctrinal and experiential classes. An A+ in Ron Allen's criminal procedure class is no small thing. She has spent a year in a clinic, TAed a 1L course, interned at the DOJ, and is on the editorial board of her journal. Prior to law school, she worked with the ACLU and did communications for the NFL. All in all, she is an extremely busy and impressive person.

Based on my experience supervising Ana's writing and of teaching her in a doctrinal course, I strongly recommend her. I have every reason to think that she will be an able member of any team she chooses to join. Please do not hesitate to contact me if there is any other information I can provide.

Matthew Kugler - matthew.kugler@law.northwestern.edu - (312) 503-3568

Respectfully,

Matthew Kugler
Professor of Law
Northwestern Pritzker School of Law

Matthew Kugler - matthew.kugler@law.northwestern.edu - (312) 503-3568

Ana Pajar Blinder

The below writing sample is an opinion written during my judicial externship with Judge Salas in the United States District Court for the District of New Jersey.

This version of the opinion was written substantially by me. Judge Salas gave me permission to use this as a writing sample.

In addition, names and other identifying information have been changed.

Ana Pajar Blinder

Not for Publication

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**ALBUS PERCIVAL WULFRIC BRIAN
DUMBLEDORE,**

Plaintiff,

v.

**OFFICE OF THE COUNTY
PROSECUTOR, COUNTY OF MAYHEM,
et al.,**

Defendants.

Civil Action No. 12-34567 (AB) (CDE)

OPINION

MORO, DISTRICT JUDGE

Before the Court is defendants State of Chaos, Office of the County Prosecutor, County of Mayhem (“MCPO”), Office of the Attorney General, Eli Manning, Nathan Zuckerman, and Omar Little’s (collectively, “Defendants”) motion to dismiss plaintiff Albus Percival Wulfric Brian Dumbledore’s (“Plaintiff”) complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The Court has considered the parties’ submissions and decides this matter without oral argument pursuant to Federal Rule of Civil Procedure 78. For the reasons set forth below, Defendants’ motion to dismiss is GRANTED.

I. Background

This action stems from Plaintiff’s nearly four-year pre-trial incarceration and subsequent acquittal of charges for the murder of Margaret Thatcher (“Thatcher”) and her daughter Ursula. Plaintiff previously had a romantic relationship with Thatcher. (D.E. No. 5, Amended Complaint (“Am. Compl.”) ¶ 13). Upon the termination of their relationship, Plaintiff remained close with

Ana Pajar Blinder

both Thatcher and her daughter and was accustomed to frequent communications with Thatcher. (*Id.* ¶¶ 15–16). On January 30, 2013, Plaintiff grew concerned because Thatcher had not returned his calls for an extended time. (*Id.* ¶ 16). As a result, Plaintiff went to Thatcher’s home, and when no one answered the door, he broke in through a window. (*Id.*). A neighbor witnessed the break-in and called the police. (*Id.*). Plaintiff found Thatcher stabbed to death and her daughter suffocated to death. (*Id.* ¶¶ 17–18). Shortly thereafter, the police arrived, and Plaintiff was taken into custody and charged with homicide, among other charges. (*Id.* ¶¶ 18–20). Plaintiff remained in prison until his case was tried. (*Id.* ¶ 22). Over four years later, on September 16, 2017, a jury acquitted Plaintiff of all charges against him. (*Id.* ¶ 30).

Based on these facts, Plaintiff commenced this action on August 5, 2019, and filed an amended complaint on August 14, 2019. Plaintiff brings a claim for violation of 42 U.S.C. § 1983 (“Section 1983”) and various state law torts, including malicious prosecution, wrongful imprisonment, false arrest, and intentional infliction of emotional distress. (*Id.* ¶¶ 32–43).

II. Legal Standard

A. 12(b)(1) Standard

Federal courts are of limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 377 (1994). Courts must dismiss actions if they lack subject matter jurisdiction. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 506 (2006). Such jurisdictional objections are governed by Federal Rule of Civil Procedure 12(b)(1). *Id.*

Because “[t]he Eleventh Amendment is a jurisdictional bar which deprives federal courts of subject matter jurisdiction,” Defendants’ motion is, in part, considered a motion to dismiss for lack of jurisdiction under Rule 12(b)(1). *See Blanciak v. Allegheny Ludlum Corp.*, 77 F.3d 690,

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694 (3d Cir. 1996) (citing *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 98–100 (1984)). A suit should be dismissed under Rule 12(b)(1), rather than Rule 12(b)(6) “where a waiver of sovereign immunity does not apply.” *CAN v. U.S.*, 535 F.3d 132, 144 (3d Cir. 2008) (internal marks and citation omitted). Otherwise put, absent a specific waiver of sovereign immunity, the courts lack subject matter jurisdiction over claims against the United States and its agencies. See, e.g., *Hercules, Inc. v. United States*, 516 U.S. 417, 422 (1996); *In re Univ. Med. Ctr.*, 973 F.2d 1065, 1085 (3d Cir. 1992); see also *Anselma Crossing, L.P. v. U.S. Postal Serv.*, 637 F.3d 238, 240 (3d Cir. 2011).

“A Rule 12(b)(1) motion may be treated as either a facial or factual challenge to the court’s subject matter jurisdiction.” *Gould Elecs. Inc. v. United States*, 220 F.3d 169, 176 (3d Cir. 2000). In a facial challenge to subject matter jurisdiction, “the court must only consider the allegations of the complaint and documents referenced therein and attached thereto, in the light most favorable to the plaintiff.” *Id.* In a factual attack to subject matter jurisdiction, however, “the court may consider evidence outside the pleadings.” *Id.* (citing *Gotha v. United States*, 115 F.3d 176, 178–79 (3d Cir. 1997)). “When a party moves to dismiss prior to answering the complaint . . . the motion is generally considered a facial attack.” *Id.*; see also *Garcia v. Knapp*, No. 19017946, 2020 WL 2786930, at *4 (D.N.J. May 29, 2020) (“Defendants, by asserting Eleventh Amendment immunity, raise a facial 12(b)(1) challenge.”). Typically, once a Rule 12(b)(1) challenge is raised, the burden shifts to the plaintiff to demonstrate the existence of subject matter jurisdiction. See *McCann v. Newman Irrevocable Trust*, 458 F.3d 281, 286 (3d Cir. 2006). “However, because ‘Eleventh Amendment immunity can be expressly waived by a party, or forfeited through non-assertion, it does not implicate federal subject matter jurisdiction in the ordinary sense,’ and therefore, a party

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asserting Eleventh Amendment immunity bears the burden of proving its applicability.” *Garcia*, 2020 WL 2786930, at *3 (quoting *Christy v. PA Tpk. Comm.*, 54 F.3d 1140, 1144 (3d Cir. 1994)).

B. 12(b)(6) Standard

To survive a motion to dismiss, “a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). More than labels and conclusions are required, “and a formulaic recitation of a cause of action’s elements will not do.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 545 (2007). The Court is not required to accept as true “legal conclusions,” and “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Iqbal*, 556 U.S. at 678. Thus, “‘stating ... a claim requires a complaint with enough factual matter (taken as true) to suggest’ the required element[s].” *Wilkerson v. New Media Tech. Charter Sch. Inc.*, 522 F.3d 315, 322 (3d Cir. 2008) (quoting *Twombly*, 550 U.S. at 556).

III. Analysis

A. Section 1983 Claims

Section 1983 provides a remedy for “every person” for the “deprivation of any rights, privileges, or immunities secured by the Constitution and laws.” 42 U.S.C. § 1983. The purpose of Section 1983 is, in part, “to deter state actors from using the badge of their authority to deprive individuals of their federally guaranteed rights and to provide relief to victims if such deterrence fails.” *Wyatt v. Cole*, 504 U.S. 158, 161 (1992) (quoting *Carey v. Piphus*, 435 U.S. 247, 254–257 (1978)). The Supreme Court has held that in order to seek redress through Section 1983, “a plaintiff must assert the violation of a federal *right*, not merely a violation of federal *law*.” *Blessing v. Freestone*, 520 U.S. 329, 340 (1997) (emphasis in original). While on its face Section 1983

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affords no immunities, the Supreme Court has “accorded certain government officials either absolute or qualified immunity.” *Wyatt*, 504 U.S. at 164.

The Defendants argue that Plaintiff’s Section 1983 claims fail (i) based on sovereign, prosecutorial, and qualified immunity; (ii) because no Defendant constitutes a “person” under Section 1983; and (iii) because no specific factual allegations are pleaded against the individual prosecutor Defendants. (*See generally* D.E. No. 16–1 (“Def. Mov. Br.”)). Many of these arguments are un rebutted by Plaintiff, who argues only that the prosecutors in this case do not benefit from absolute immunity and cannot claim the protections of qualified immunity. (*See* D.E. No. 27 (“Opp. Br.”)). The Court agrees with Defendants that there are multiple grounds for dismissal of the Section 1983 claims, though it need not, and will not, address all of Defendants’ arguments.

i. Sovereign Immunity

The Eleventh Amendment protects non-consenting states from suits brought in federal court by private citizens seeking monetary damages. *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 100 (1984); U.S. Const. amend. XI. Eleventh Amendment immunity can extend to state agencies and instrumentalities acting as “arm[s] of the state.” *Regents of the University of California v. Doe*, 519 U.S. 425, 425 (1997). A state entity is characterized as an arm of the state when a judgment against it “would have essentially the same practical consequences as a judgment against the State itself.” *Bowers v. Nat’l Collegiate Athletic Ass’n*, 475 F.3d 524, 546 (3d Cir. 2007). Immunity also extends to state officials when they “are sued for damages in their official capacity.” *Kentucky v. Graham*, 473 U.S. 159, 161 (1985).

Applying these standards to the various Defendants in this lawsuit, the Court concludes that Plaintiff’s Section 1983 claims must be dismissed at least as to some Defendants. To start,

Ana Pajar Blinder

the State of Chaos and the Office of the Chaos Attorney General are clearly covered by the Eleventh Amendment and are immune from suit. *See Lombardo v. Pa. Dep't of Pub. Welfare*, 540 F.3d 190, 194–95 (3d Cir. 2008); *Mikhaeil v. Santos*, 646 Fed. Appx. 158, 162 (3d Cir. 2016) (affirming dismissal of section 1983 claims against the state of New Jersey and the state Attorney General because “[i]nsofar as they were sued for damages in their official capacities, they are entitled to Eleventh Amendment immunity.”). Indeed, Plaintiff does not argue otherwise. *See Alabama v. Pugh*, 438 U.S. 781, 782 (1978) (holding that respondents must show the State has waived its immunity); *Welch v. Texas Dept. of Highways and Public Transp.*, 483 U.S. 468, 474 (1987) (holding Congress has the power to abrogate Eleventh Amendment immunity of a State without its consent if it expresses its intent to do so in “unmistakable language in the statute itself.” (internal marks and citation omitted)).

With respect to the remaining defendants—MCPO and the individual prosecutors—the analysis turns on whether the state is a real party in interest, making these defendants an arm of the state.¹ *Estate of Lagano v. Bergen Cty. Prosecutor's Office*, 769 F.3d 850, 858 (3d Cir. 2014). The Third Circuit considers three factors to make this determination: “(1) whether the money to pay for the judgment would come from the state; (2) the status of the agency under state law; and (3) what degree of autonomy the agency has.” *Id.* (citing *Fitchik v. N.J. Transit Rail Operations*, 873 F.2d 655, 659 (3d Cir. 1989)). The parties do not frame their arguments in terms of the *Fitchik* factors, instead focusing on whether the claims against the MCPO and its employees encompass classic law enforcement and investigative functions during a prosecution. (Mov. Br. at 7–8 (citing *Beightler v. Office of Essex Cty. Prosecutor*, 342 F. App'x 829 (3d Cir. Aug. 29,

¹ There is no indication as to whether the individual prosecutors are sued in their personal or official capacities. For Eleventh Amendment purposes, the Court presumes the individual prosecutors are sued in their official capacities. In official-capacity actions, only sovereign immunities—such as Eleventh Amendment immunity—are available, while numerous personal immunity defenses are available in personal-capacity actions. *Graham*, 473 U.S. at 167.

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2009); Opp. Br. at 11–19; D.E. No. 28 (“Reply Br.”) at 3–4). But the Third Circuit has rejected such an approach. *Estate of Lagano*, 769 F.3d at 857–858 (“[W]e are not bound or persuaded by *Beightler’s* statement that the *Fitchik* inquiry is satisfied whenever a county prosecutor engages in classic prosecutorial functions. We therefore conclude that *Fitchik* provides the proper framework for analyzing Eleventh Amendment sovereign immunity as it applies to county prosecutors.”). Thus, because claims against the remaining defendants are dismissed on other grounds, the Court does not endeavor to conduct this analysis for the parties.

Count I is therefore dismissed on the basis of Eleventh Amendment immunity, against the State of Chaos and the Office of the Chaos Attorney General.

ii. Persons Under Section 1983

Defendants also argue that even if Plaintiff’s Section 1983 claims are not barred by Eleventh Amendment immunity, they must be dismissed because no Defendant is a “person” under the meaning of the Section 1983. The Court agrees.

States and state agencies are not considered “persons” within the meaning of Section 1983, providing another reason for dismissal of the State of Chaos and the Office of the Attorney General. *Blanciak v. Allegheny Ludlum Corp.*, 77 F.3d 690, 697 (3d Cir. 1996). However, local governmental bodies and their officials may be considered “persons” under Section 1983. *Monell v. Dep’t of Soc. Servs. of City of New York*, 436 U.S. 658, 690 (1978). When county prosecutors perform “classic law enforcement and investigative functions” they are arms of the State, but when they engage in administrative tasks “unrelated to the duties involved in criminal prosecution” they act on behalf of the county. *Coleman v. Kaye*, 87 F.3d 1491, 1505-56 (3d Cir. 1996) (abrogated on different grounds). Courts routinely dismiss county prosecutors from suits involving Section 1983 claims. *See Mikhaeil v. Santos*, 646 F. App’x. 158, 161 (3d Cir. 2016) (affirming lower court

Ana Pajar Blinder

holding that prosecuting attorney was immune for role in prosecuting criminal case); *Coley v. County of Essex*, No. 10-3530, 2011 WL 2065065, at *4 (3d Cir. May 36, 2011) (holding presentation of case to a grand jury constituted a law enforcement function, rendering prosecutor's office an arm of the state).

Here, Plaintiff claims the MCPO and individual prosecutors failed to "properly investigate" his conduct because they "ignored significant exculpatory evidence." (Am. Compl. ¶¶ 23 & 41). Specifically, Plaintiff alleges Defendants ignored their own expert's footprint evidence, ignored fingerprint evidence found in the victim's home, and failed to test a DNA sample found on the victim. (*Id.* ¶¶ 26–28). The complained conduct amounts to classic law enforcement and investigative functions. *Coleman*, 87 F.3d at 1505. The MCPO and its individual prosecutors are therefore considered arms of the state. Section 1983 claims will additionally be dismissed against the county prosecutor's office and its officials, as they are not considered "persons" under its meaning.

As such, Count I is dismissed against all Defendants on the basis of this analysis.

B. State Law Tort Claims

Finally, Defendants argue several grounds for dismissal of the state law tort claims presented in Count II. But the Court does not reach these arguments because, to the extent any such state law claims exist, the Court declines to exercise supplemental jurisdiction. *See* 28 U.S.C. § 1367; *Washington v. Specialty Risk Servs.*, No. 12-1393, 2012 WL 3528051, at *2 (D.N.J. Aug. 15, 2012) (noting that "[w]here the claim over which the district court has original jurisdiction is dismissed before trial, the district court *must* decline to decide the pendent state claims unless considerations of judicial economy, convenience, and fairness to the parties provide an affirmative

Ana Pajar Blinder

justification for doing so”) (alterations in original) (quoting *Hedges v. Musco*, 204 F.3d 109, 123 (3d Cir. 2000)). Accordingly, these claims are dismissed *without prejudice*.

IV. Conclusion

For the forgoing reasons, the Court GRANTS Defendants’ motion. Plaintiff’s Section 1983 claims are dismissed *with prejudice*. The remaining claims are based on state law and Plaintiff’s complaint asserts supplemental jurisdiction over those claims. Because federal claims are dismissed with prejudice, this Court declines to exercise supplemental jurisdiction over remaining state law claims, and those claims are dismissed *without prejudice*. An appropriate Order accompanies this Opinion.

Applicant Details

First Name **Adina**
 Last Name **Hemley-Bronstein**
 Citizenship Status **U. S. Citizen**
 Email Address ahemleybronstein@gmail.com
 Address

Address**Street****228 Saint Johns Place, Apartment 2****City****BROOKLYN****State/Territory****New York****Zip****11217****Country****United States**

Contact Phone
 Number **6173047024**

Applicant Education

BA/BS From **Yale University**
 Date of BA/BS **June 2014**
 JD/LLB From **Yale Law School**
https://www.nalplawschools.org/content/OrganizationalSnapshots/OrgSnapshot_225.pdf
 Date of JD/LLB **June 2, 2021**
 Class Rank **School does not rank**
 Law Review/
 Journal **Yes**
 Journal(s) **Yale Journal of Law & Feminism**
 Moot Court
 Experience **No**

Bar Admission**Prior Judicial Experience**

Judicial
Internships/ **No**
Externships
Post-graduate
Judicial Law **No**
Clerk

Specialized Work Experience

Specialized Work **Appellate, Immigration, Prison Litigation**
Experience

Recommenders

Fischer, Brian
bfischer@jenner.com
6465288799
Siegel, Reva
reva.siegel@yale.edu
203-432-6791
Harrison, Robert
robert.harrison@yale.edu
203-432-7647

**This applicant has certified that all data entered in this profile and
any application documents are true and correct.**

ADINA HEMLEY-BRONSTEIN

228 Saint Johns Place | Brooklyn, NY 11217 | ahemleybronstein@gmail.com | (617) 304-7024

The Honorable Vernon S. Broderick
United States District Court for the Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 415
New York, NY 10007-1312

June 11, 2023

Dear Judge Broderick:

I am a graduate of Yale Law School's class of 2021 and a second-year Litigation Associate at Jenner & Block LLP in New York. I am writing to apply for a clerkship beginning in 2025. My current job permits me to begin a position "off-cycle."

Your government and criminal law background draws me to this opportunity. My work in deportation defense is the reason I became a lawyer, and I am committed to transitioning to a public interest career in two to four years. I am particularly interested in positions in a state government's civil rights division or alternatively at a small private firm with robust civil rights and criminal defense practices. Your experience in both the public and private sectors makes me especially excited at the prospect of serving as one of your clerks.

I am confident that my experiences before and since law school prepare me for the demands of a district court clerkship. At Jenner, I have become a more efficient and precise legal researcher and writer. I have also become familiar with the culture of SDNY by coordinating my firm's participation in the Reentry Through Intensive Supervision and Employment ("RISE") program. Finally, at Jenner, I have learned to appreciate the facts: As the most junior member of my case teams, it is my job to know the record inside and out and to alert partners to specific facts that may bolster or undermine our case. In this role, I have learned to balance meticulous attention to detail with the ability to think conceptually and creatively about our case theories and strategy. These skills and experiences, along with my work ethic and eagerness to learn all I can about the intricacies of litigation, prepare me to hit the ground running and quickly become a valuable member of your chambers.

It would be a privilege to speak with you about this role. Thank you for considering my application.

Sincerely,



Adina Hemley-Bronstein

ADINA HEMLEY-BRONSTEIN

228 Saint Johns Place | Brooklyn, NY 11217 | ahemleybronstein@gmail.com | (617) 304-7024

EDUCATION**Yale Law School**, New Haven, CT J.D., May 2021

Experience: Clinic Member, Prof. Miriam Gohara (Challenging Mass Incarceration Clinic)
 Research Assistant, Prof. Reva Siegel (equal protection arguments for abortion access)
 Research Assistant, Prof. Monica Bell (consequences of stop-and-frisk policing)
 Teaching Assistant, Prof. Robert Harrison (Advanced Legal Writing)

Yale University, New Haven, CT B.A., May 2014

Major: American Studies with Honors

Honors: Phi Beta Kappa; *Magna cum laude***PROFESSIONAL EXPERIENCE****Jenner & Block LLP**, New York, NY 11/2021–Present; 6/2020–7/2020*Litigation Associate*

- Participate in all aspects of complex commercial litigation and internal investigations.
- Manage document review, respond to discovery requests, and interview witnesses.
- Draft pleadings, motions, and briefs (*e.g.*, complaint, motion to dismiss, and Second Circuit brief).
- Serve on firm's Pro Bono Committee and provide pro bono legal assistance through Judge Denny Chin's Reentry Through Intensive Supervision and Employment ("RISE") Court.

Prisoners' Legal Services of Massachusetts, Boston, MA 6/2019–8/2019*Legal Intern*

- Supported class action lawsuit challenging involuntary civil commitment law.
- Interviewed prisoners in English and Spanish about conditions of confinement.

Bar Association of San Francisco, San Francisco, CA 9/2017–7/2018; 10/2014–11/2015*Pro Bono Deportation Defense Coordinator*

- Coordinated pro bono counsel for 80 individuals/week at initial deportation hearings.
- Created regional referral system to connect clients with pro bono deportation defense.

Mission Asset Fund, San Francisco, CA 8/2016–9/2017*Communications Associate*

- Wrote keynote speeches and articles for CEO José Quiñonez.
- Crafted talking points on organization's mission of helping clients build financial security.

UC Berkeley Psychology Department, Berkeley, CA 2/2016–8/2016*Research Coordinator*

- Coordinated clinical trial on effectiveness of sleep therapy for adults with severe mental illness.

Immigration Law Office of Robert B. Jobe, San Francisco, CA 3/2014–9/2014*Bilingual (Spanish/English) Paralegal*

- Prepared applications for green cards, citizenship, asylum, and other forms of relief.

LANGUAGE

Spanish – Proficient

YALE LAW SCHOOL

Office of the Registrar

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YALE UNIVERSITY

Date Issued: 13-APR-2023

Record of: Adina Hemley-Bronstein

Page: 1

Issued To: Adina Hemley-Bronstein
Parchment Document ID: TWCPCZPP

Date Entered: Fall 2018

Degree Awarded : Juris Doctor 04-JUN-2021

SUBJ	NO.	COURSE TITLE	UNITS	GRD	INSTRUCTOR
------	-----	--------------	-------	-----	------------

Fall 2018

LAW	10001	Constitutional Law I:SectionB	4.00	CR	R. Siegel
LAW	11001	Contracts I: Group 2	4.00	CR	H. Hansmann
LAW	12001	Procedure I: Section B	4.00	CR	H. Koh
LAW	13001	Torts I: Section C	4.00	CR	J. Witt
		Term Units	16.00	Cum Units	16.00

Spring 2019

LAW	21027	Advanced Legal Research	2.00	H	J. Nann
LAW	21233	Criminal Law	3.00	H	G. Yaffe
LAW	21277	Evidence	4.00	H	S. Carter
LAW	21426	CapPunshmnt:Race,Poverty,Disad	4.00	P	S. Bright
		Term Units	13.00	Cum Units	29.00

Fall 2019

LAW	20037	Employment Discrimination Law	4.00	P	V. Schultz
LAW	20219	Business Organizations	4.00	P	J. Macey
LAW	20300	ProfessResponsibilityLegEthics	3.00	H	R. Little
LAW	30135	ChallengingMassIncarcerationCl	2.00	H	M. Gohara, K. Barrett
LAW	30136	ChallengMassIncarcerationFldwk	2.00	H	M. Gohara, K. Barrett
		Term Units	15.00	Cum Units	44.00

Spring 2020

LAW	21017	Property	4.00	CR	T. Zhang
LAW	21601	Administrative Law	4.00	CR	N. Parrillo
LAW	30146	AdvChallengMassIncarcCl:Fldwk	2.00	CR	M. Gohara
LAW	30198	Complex Civil Litigation	2.00	CR	S. Underhill

Substantial Paper

		Term Units	12.00	Cum Units	56.00
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Spr2020 YLS classes completed after 3/6/20 graded
only on a CR/F basis due to COVID-19.

Fall 2020

LAW	20032	Advanced Legal Writing	2.00	H	R. Harrison
LAW	20066	Legislation	3.00	H	A. Gluck
LAW	20359	Crim Pro:Charging&Adjudic	4.00	H	K. Stith
LAW	20546	Constl&CivRtsImpactLitigation	2.00	H	L. Guttentag
LAW	40001	Supervised Research	2.00	H	R. Siegel
LAW	50100	RdgGrp:Progressive Scholarship	1.00	CR	R. Siegel
		Term Units	14.00	Cum Units	70.00

Sup. Research: Abortion Litigation Strategies
After June Medical Services v. Russo.

Spring 2021

LAW	21124	Federal and StateCourts/FedSys	4.00	H	J. Resnik
LAW	21209	International Business Trans.	4.00	H	A. Chua

***** CONTINUED ON PAGE 2 *****



Heather Abbott
HEATHER ABBOTT, REGISTRAR

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YALE LAW SCHOOL

Office of the Registrar

TRANSCRIPT RECORD

YALE UNIVERSITY

Date Issued: 13-APR-2023

Record of: Adina Hemley-Bronstein
Level: Professional: Law (JD)

Page: 2

SUBJ NO.	COURSE TITLE	UNITS	GRD	INSTRUCTOR
Institution Information continued:				
LAW 21429	Race, Inequality, Law: DirRes	4.00 H		M. Bell
	Supervised Analytic Writing			
LAW 21448	Crim Procedure: Investigations	3.00 H		M. Baer
	Term Units	15.00	Cum Units	85.00
***** END OF TRANSCRIPT *****				



Heather Abbott

HEATHER ABBOTT, REGISTRAR

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YALE LAW SCHOOL
P.O. Box 208215
New Haven, CT 06520

EXPLANATION OF GRADING SYSTEM

Beginning September 2015 to date

<u>HONORS</u>	Performance in the course demonstrates superior mastery of the subject.
<u>PASS</u>	Successful performance in the course.
<u>LOW PASS</u>	Performance in the course is below the level that on average is required for the award of a degree.
<u>CREDIT</u>	The course has been completed satisfactorily without further specification of level of performance. All first-term required courses are offered only on a credit-fail basis. Certain advanced courses are offered only on a credit-fail basis.
<u>FAILURE</u>	No credit is given for the course.
<u>CRG</u>	Credit for work completed at another school as part of an approved joint-degree program; counts toward the graded unit requirement.
<u>RC</u>	Requirement completed; indicates J.D. participation in Moot Court or Barrister's Union.
<u>T</u>	Ungraded transfer credit for work done at another law school.
<u>TG</u>	Transfer credit for work completed at another law school; counts toward graded unit requirement.
<u>EXT</u>	In-progress work for which an extension has been approved.
<u>INC</u>	Late work for which no extension has been approved.
<u>NCR</u>	No credit given because of late withdrawal from course or other reason noted in term comments.

Our current grading system does not allow the computation of grade point averages. Individual class rank is not computed. There is no required curve for grades in Yale Law School classes.

Classes matriculating September 1968 through September 1986 must have successfully completed 81 semester hours of credit for the J.D. (Juris Doctor) degree. Classes matriculating September 1987 through September 2004 must have successfully completed 82 credits for the J.D. degree. Classes matriculating September 2005 to date must have successfully completed 83 credits for the J.D. degree. A student must have completed 24 semester hours for the LL.M. (Master of Laws) degree and 27 semester hours for the M.S.L. (Master of Studies in Law) degree. The J.S.D. (Doctor of the Science of Law) degree is awarded upon approval of a thesis that is a substantial contribution to legal scholarship.

<i>For Classes Matriculating 1843 through September 1950</i>	<i>For Classes Matriculating September 1951 through September 1955</i>	<i>For Classes Matriculating September 1956 through September 1958</i>	<i>From September 1959 through June 1968</i>
80 through 100 = Excellent 73 through 79 = Good 65 through 72 = Satisfactory 55 through 64 = Lowest passing grade 0 through 54 = Failure	E = Excellent G = Good S = Satisfactory F = Failure	A = Excellent B = Superior C = Satisfactory D = Lowest passing grade F = Failure	A = Excellent B+ B = Degrees of Superior C+ C = Degrees of Satisfactory C- D = Lowest passing grade F = Failure
To graduate, a student must have attained a weighted grade of at least 65.	To graduate, a student must have attained a weighted grade of at least Satisfactory.	To graduate, a student must have attained a weighted grade of at least D.	To graduate a student must have attained a weighted grade of at least D.
<i>From September 1968 through June 2015</i>			
H = Work done in this course is significantly superior to the average level of performance in the School. P = Successful performance of the work in the course. LP = Work done in the course is below the level of performance which on the average is required for the award of a degree.	CR = Grade which indicates that the course has been completed satisfactorily without further specification of level of performance. All first-term required courses are offered only on a credit-fail basis. Certain advanced courses offered only on a credit-fail basis. F = No credit is given for the course.	RC = Requirement completed; indicates J.D. participation in Moot Court or Barrister's Union. EXT = In-progress work for which an extension has been approved. INC = Late work for which no extension has been approved. NCR = No credit given for late withdrawal from course or for reasons noted in term comments.	CRG = Credit for work completed at another school as part of an approved joint-degree program; counts toward the graded unit requirement. T = Ungraded transfer credit for work done at another law school. TG = Transfer credit for work completed at another law school; counts toward graded unit requirement. *Provisional grade.

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Adina Hemley-Bronstein
Student ID: 10397024

Scott C. Campbell, University Registrar

Undergraduate

Academic Program History

The College
Start Quarter: Autumn 2009
Current Status: Discontinued
Common Year

External Education
Newton North High School
Newtonville, Massachusetts
Diploma 2009

Beginning of Undergraduate Record

Autumn 2009

Course	Description	Attempted	Earned	Grade
BIOS 10130	Core Biology 2010	100	100	A
HUMA 11500	Philosophical Perspectives-1	100	100	A
HUMA 19100	Humanities Writing Seminars	0	0	P
MATH 13100	Elem Functions And Calculus-1	100	100	A

PHYSICAL EDUCATION: REQUIREMENT COMPLETED

Winter 2010

Course	Description	Attempted	Earned	Grade
GNDR 10100	Problems In the Study Gender	100	100	A
HUMA 11600	Philosophical Perspectives-2	100	100	A
HUMA 19100	Humanities Writing Seminars	0	0	P
MATH 13200	Elem Functions And Calculus-2	100	100	A
PSYC 20000	Fundamentals of Psychology	100	100	A

Spring 2010

Course	Description	Attempted	Earned	Grade
BIOS 13111	Natural History of North American Deserts	100	100	A
HUMA 11700	Philosophical Perspectives-3	100	100	A
HUMA 19100	Humanities Writing Seminars	0	0	P
PSYC 23300	The Social Brain and Empathy	100	100	A

Honors/Awards

DEAN'S LIST 2009-10

Undergraduate Career Totals
Cumulative GPA: 3.970
Cumulative Totals 1000 1000

End of Undergraduate

Date Issued: 11/14/2017



Key to Transcripts of Academic Records

1. Accreditation: The University of Chicago is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools. For information regarding accreditation, approval or licensure from individual academic programs, visit <http://csl.uchicago.edu/policies/disclosures>.

2. Calendar & Status: The University calendar is on the quarter system. Full-time quarterly registration in the College is for three or four units and in the divisions and schools for three units. For exceptions, see 7 Doctoral Residence Status.

3. Course Information: Generally, courses numbered from 10000 to 29999 are courses designed to meet requirements for baccalaureate degrees. Courses with numbers beginning with 30000 and above meet requirements for higher degrees.

4. Credits: The Unit is the measure of credit at the University of Chicago. One full Unit (100) is equivalent to 3 1/3 semester hours or 5 quarter hours. Courses of greater or lesser value (150, 050) carry proportionately more or fewer semester or quarter hours of credit. See 8 for Law School measure of credit.

5. Grading Systems:

Quality Grades	College & Graduate	Business	Law
A+	4.0	4.33	
A	4.0	4.0	186-180
A-	3.7	3.67	
B+	3.3	3.33	
B	3.0	3.0	179-174
B-	2.7	2.67	
C+	2.3	2.33	
C	2.0	2.0	173-168
C-	1.7	1.67	
D+	1.3	1.33	
D	1	1	167-160
F	0	0	159-155

Non-Quality Grades

I Incomplete: Not yet submitted all evidence for final grade. Where the mark I is changed to a quality grade, the change is reflected by a quality grade following the mark I, (e.g. IA or IB).

IP (Pass) (non-Law): Mark of I changed to P (Pass). See 8 for Law IP notation.

NGR No Grade Reported: No final grade submitted

P Pass: Sufficient evidence to receive a passing grade. May be the only grade given in some courses.

Q Query: No final grade submitted (College only)

R Registered: Registered to audit the course

S Satisfactory

U Unsatisfactory

UW Unofficial Withdrawal Does not affect GPA calculation

W Withdrawal: Does not affect GPA calculation

WP Withdrawal Passing: Does not affect GPA calculation

WF Withdrawal Failing: Does not affect GPA calculation

Examination Grades

H Honors Quality
P* High Pass
P Pass

Grade Point Average: Cumulative G.P.A. is calculated by dividing total quality points earned by quality hours attempted. For details visit the Office of the University Registrar website: <http://registrar.uchicago.edu>.

6. Academic Status and Program of Study: The quarterly entries on students' records include academic statuses and programs of study. The Program of Study in which students are enrolled is listed along with the quarter they commenced enrollment at the beginning of the transcript or chronologically by quarter. The definition of academic statuses follows:

7. Doctoral Residence Status: Effective Summer 2016, the academic records of students in programs leading to the degree of Doctor of Philosophy reflect a single doctoral registration status referred to by the year of study (e.g. D01, D02, D03). Students entering a PhD program Summer 2016 or later will be subject to a

University-wide 9-year limit on registration. Students who entered a PhD program prior to Summer 2016 will continue to be allowed to register for up to 12 years from matriculation.

Scholarship Residence: the first two years of study beyond the baccalaureate degree. (Revised Summer 2000 to include the first four years of doctoral study; Discontinued Summer 2016)

Research Residence: the third and fourth years of doctoral study beyond the baccalaureate degree. (Discontinued Summer 2000)

Advanced Residence: the period of registration following completion of Scholarships and Research Residence until the Doctor of Philosophy is awarded. (Revised in Summer 2000 to be limited to 10 years following admission for the School of Social Service Administration doctoral program and 12 years following admission to all other doctoral programs. Discontinued Summer 2016.)

Active File Status: a student in Advanced Residence status who makes no use of University facilities other than the Library may be placed in an Active File with the University. (Discontinued Summer 2000)

Doctoral Leave of Absence: the period during which a student suspends work toward the Ph.D. and expects to resume work following a maximum of one academic year.

Extended Residence: the period following the conclusion of Advanced Residence. (Discontinued Summer 2013.)

Doctoral students are considered full-time students except when enrolled in Active File or Extended Residence status, or when permitted to complete the Doctoral Residence requirement on a half-time basis.

Students whose doctoral research requires residence away from the University register *Pro Forma*. *Pro Forma* registration does not exempt a student from any other residence requirements but suspends the requirement for the period of the absence. Time enrolled *Pro Forma* does not extend the maximum year limit on registration.

8. Law School Transcript Key: The credit hour is the measure of credit at the Law School. University courses of 100 Units not taught through the Law School are comparable to 3 credit hours at the Law School, unless otherwise specified.

The frequency of honors in a typical graduating class:

Highest Honors (182+) 0.5%
High Honors (180.5+)(pre-2002 180+) 7.2%
Honors (179+)(pre-2002 178+) 22.7%

Pass/Fail and letter grades are awarded primarily for non-law courses. Non-law grades are not calculated into the law GPA.

P** indicates that a student has successfully completed the course but technical difficulties, not attributable to the student, interfered with the grading process.

IP (In Progress) indicates that a grade was not available at the time the transcript was printed.

* next to a course title indicates fulfillment of one of two substantial writing requirements. (Discontinued for Spring 2011 graduating class.)

See 5 for Law School grading system.

9. FERPA Re-Disclosure Notice: In accordance with U.S.C. 438(6)(4)(8)(The Family Educational Rights and Privacy Act of 1974) you are hereby notified that this information is provided upon the condition that you, your agents or employees, will not permit any other party access to this record without consent of the student.

Office of the University Registrar
University of Chicago
1427 E. 60th Street
Chicago, IL 60637
773.702.7891

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Revised 09/2016

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YALE UNIVERSITY

Student No: 908833846

Date Issued: 06-JAN-2019

Record of: Adina Hemley-Bronstein

Page: 1

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 Parchment DocumentID: 21209055

College : Yale College MC 14
 Major : American Studies (Int.)

Events: MAGNA CUM LAUDE

Phi Beta Kappa at Commencement

Degree(s) Awarded :

Bachelor of Arts 19-MAY-2014

SUBJ NO. COURSE TITLE CRED GRD

Institution Information continued:

SUBJ NO. COURSE TITLE CRED GRD

TRANSFER CREDIT ACCEPTED BY THE INSTITUTION:

Summer 2010 University Of Chicago

**** ** Transfer Course Work 11.00 TR

Fall 2010

ENGL 120 Reading & Writing Modern Essay 1.00 A
 MATH 190 Fractal Geometry 1.00 A
 SPAN 243 Advanced Spanish Grammar 1.00 A
 WGSS 370 Theorizing Sexual Violence 1.00 A

Spring 2011

AMST 162 AfricanAmerHist:Emanciptn-Pres 1.00 A-
 AMST 191 FormatnModAmerCulture1920-Pres 1.00 A
 PLSC 227 Refugee Law and Policy 1.00 A

Fall 2011

AFAM 187 Sexuality:Caribbean &LatinAmer 1.00 A
 AMST 190 FormatnModAmerCulture1876-1919 1.00 A
 AMST 369 20thC Socialism & Marxism 1.00 A
 FREN 110 Elementary&IntermediateFrenchI 1.50 A

Spring 2012

Leave of Absence

***** CONTINUED ON NEXT COLUMN *****

Fall 2012

AFAM 325 U.S. Social Policy &Inequality 1.00 A-
 AFAM 349 CivilRights &Women'sLiberation 1.00 A
 AMST 421 The American Gulf Coast 1.00 A
 EP&E 452 RecentBioethicsTheory&Practice 1.00 CR
 HIST 129J CapitalismClass&PowerIn20thC US 1.00 B+

Spring 2013

AFAM 410 InterdiscApproachesAfrAmerStud 1.00 A
 AMST 261 American Novel since 1945 1.00 A
 AMST 311 Latina/o New Haven 1.00 A
 AMST 493 SeniorProject: IntensiveMajor 1.00 A
 CSPC 280 UndrstndngPolitics&Politicians 1.00 A

Fall 2013

AMST 135 U.S. Lesbian and Gay History 1.00 A
 AMST 494 SeniorProject: IntensiveMajor 1.00 A
 F&ES 510 Intro Statistics: Env Sciences 1.00 A-
 HUMS 349 The Bible 1.00 CR
 SOCY 208 Guns in the United States 1.00 A
 12/17/13Qualified for Bachelor of Arts degree

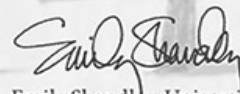
Spring 2014

*****UNDERGRADUATE DEGREE GPA 3.93 *****

Cumulative GPA: 3.93

***** END OF TRANSCRIPT *****

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Emily Shandley, University Registrar



Yale University

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Yale College is the undergraduate division of Yale University, and this document is a transcript of the student's undergraduate record at Yale. Yale University is accredited by the New England Association of Schools and Colleges. Federal law prohibits release of information from this transcript to a third party without the express written consent of the student.

REQUIREMENTS FOR THE BACHELOR'S DEGREE

For the class of 1970 and subsequent classes, a student must successfully complete at least 36 semester courses or their equivalent in Yale College to qualify for the degree of Bachelor of Arts (B.A.) or Bachelor of Science (B.S.). *Semester credit hours only appear on the transcript for the convenience of other institutions.* The student must also fulfill the Distributional Requirements, including the Foreign Language Requirement (beginning with students entering in Fall 1983), and complete the requirements of a major program, including a departmental examination or its equivalent, such as a senior essay. Some programs offer an intensive major as well as a standard major. A student may normally complete no more than eight terms of enrollment in order to fulfill these requirements.

For the Class of 1969, at least 38 semester courses or their equivalent must have been satisfactorily completed for the Bachelor's degree in the standard major.

For the Classes of 1934 to 1968, at least 40 semester courses or their equivalent must have been satisfactorily completed for the Bachelor's degree in the standard major.

For the Classes of 1927 to 1933, at least 120 semester hours were required for graduation.

For the Classes of 1926 and prior classes, 60 year hours were required for graduation.

Students who enter Yale College with advanced preparation may be awarded credit in those subjects at the conclusion of the freshman year (college credit for students who entered prior to September 1975; acceleration credit for students who entered subsequently). Such credit may be counted toward the requirements for graduation if the student accelerates - that is, if the student concludes his or her studies in fewer than eight semesters.

A limited number of students enroll as Eli Whitney Students, usually completing degree requirements on a part-time basis over a period not exceeding seven years. Such enrollment may lead to the Bachelor of Arts or Bachelor of Science degree. Until 2004, the Eli Whitney Students program was called the Degree Special Students program and could alternatively lead to the Bachelor of Liberal Studies (B.L.S.) degree.

SUMMER SESSION

From 1975 through 1978, Yale College offered a summer term, the equivalent of a regular fall or spring term. Students could participate in a summer term as regular enrollment if the term was intended to be one of eight terms of attendance, or as supplementary enrollment if the term was not to be one of the eight required terms. Part-time participation in a summer term was permitted under supplementary enrollment.

Yale Summer Programs (1979 to 2004) / Yale Summer Session (2005-present) is currently an independent division of Yale University. In both content and method, most summer courses are identical to courses offered in Yale College during the regular academic year. Summer courses are, however, smaller in size and are both more concentrated and intensive than courses offered during the regular fall and spring semesters. Summer courses are taught by regular faculty of Yale University, by visiting professors who receive temporary appointments at Yale, and by Yale graduate students. Summer courses are approved by the Yale College faculty for credit toward the bachelor's degree.

NUMBERING OF COURSES

Beginning in 1977-78, undergraduate courses are numbered from 100 to 499. Course numbers do not necessarily correlate with course level. Courses taken in the Yale Graduate School of Arts and Sciences are numbered from 500 to 999. Courses offered through the various Yale professional schools are numbered according to the systems of those respective schools.

Before 1977-78, courses numbered from 10 to 19 were, in general, elementary or first-year courses. Second-year or intermediate courses were numbered from 20 to 29. Third-year and advanced courses were numbered from 30 to 99. Courses numbered 100 and above were offered through the Graduate School of Arts and Sciences.

Year-long courses may appear with identical abbreviated titles for the two terms in which the courses were taken. In some year-long courses, failure to complete the second term results in no credit for either term.

The following may also appear in combination with course numbers:

a	Fall term course	E	Online course
b	Spring term course	S	Yale Summer Session
C	Summer term course	J	Junior seminar
I or lb	Laboratory course		

COURSE CREDIT EQUIVALENT

One (1) Yale College course credit equates to four (4) semester hours.

COURSE TITLES AND DESCRIPTIONS

Full course titles and course descriptions are provided in the *Yale College Programs of Study* bulletin. Upon request to the Registrar, copies of relevant pages will be furnished at a cost of \$.50 per page.

GRADING SYSTEMS

Yale calculates grade point averages for students enrolled in the Fall 2005 term and subsequent terms. Starred grades (*) do not count toward GPA. Yale does not calculate class rank. The College currently operates on a semester system.

Fall 2014 through the present:

A, A-	Excellent	B+, B, B-	Good	C+, C, C-	Satisfactory
D+, D, D-	Passing	P	Pass	F	Fail
CR	Credit (see below*)				
W	Withdrew (without prejudice after midterm)				TR Transfer Credit

Fall 2009 through Summer 2014:

A, A-	Excellent	B+, B, B-	Good	C+, C, C-	Satisfactory
D+, D, D-	Passing	F	Fail	CR	Credit (see below*)
W	Withdrew (without prejudice after midterm)				TR Transfer Credit

Summer 1981 through Spring 2009:

A, A-	Excellent	B+, B, B-	Good	C+, C, C-	Satisfactory
D+, D, D-	Passing	F	Fail	CR	Credit (see below*)
W	Withdrew (without prejudice after midterm)				

Fall 1972 through Spring 1981:

A	Excellent	B	Very Good	C	Satisfactory	D	Passing
F	Fail	CR	Credit (see below*)				
W	Withdrew (without prejudice after midterm)						

Fall 1967 through Spring 1972:

H	Honors	HP	High Pass	P	Pass	F	Fail
INP	Incomplete	W	Withdrew (in good standing)				
WF	Withdrew (failing)						

Fall 1932 through Spring 1966:

A 100-point numerical grading system was used at Yale College during this period with the following demarcations:

90-100	A	80-89	B	70-79	C	60-69	D (passing)	50-59	F
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Prior to Fall 1932:

A 400-point numerical grading system was used at Yale College with the following equivalencies established between the 100-point and the 400-point scales:

400 = 100	375 = 95	350 = 90	325 = 85	300 = 80	275 = 75	250 = 70
225 = 65	200 = 60	(passing)				

The following marks may appear on some transcripts:

ABP	Absent from final examination
ABX	Authorized postponement of a final examination
INC or TI	Authorized late submission of work
NM or #	No grade recorded
NS	Unsatisfactory completion of work to date
SAT	Satisfactory completion of work to date
UNC	Unauthorized late submission of work

Beginning with Fall 1976, the transcript shows all courses in which the student was enrolled at midterm.

From Fall 1972 through Summer 1976, the transcript was a record only of courses successfully completed.

The grades of A, A-, B+, B, B-, C+, C, C-, D+, D, D-, CR, TR, H, HP, and P equally contribute course credit toward graduation requirements.

* *From Fall 1975 through Spring 1993*, students could elect a limited number of courses on the Credit/Fail option; passing grades were converted to CR.

* *Beginning with Fall 1993*, only grades of C- and above in courses elected on the Credit/D/Fail option were converted to CR.

OFFICIAL RECORD

A transcript without the signature of the University Registrar is to be considered only as a statement of the student's academic progress toward the degree and is not to be considered as an official document.

June 10, 2023

The Honorable Vernon Broderick
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 415
New York, NY 10007-1312

Dear Judge Broderick:

I write to enthusiastically recommend Adina Hemley-Bronstein for a clerkship in your Chambers. I have been fortunate to know Adina since her time as a summer associate here at Jenner & Block LLP, where I am a litigation partner in our firm's New York office. Following graduation in 2021, Adina came back to Jenner as a full-fledged litigation associate. In her brief time here, Adina has established herself as one of the most promising, talented, and well-liked junior associates we have seen in quite some time (and I have been here for 16 years, so I have worked with dozens of strong incoming associates). I write to enthusiastically recommend Adina Hemley-Bronstein for a clerkship in your Chambers. I have been fortunate to know Adina since her time as a summer associate here at Jenner & Block LLP, where I am a litigation partner in our firm's New York office. Following graduation in 2021, Adina came back to Jenner as a full-fledged litigation associate. In her brief time here, Adina has established herself as one of the most promising, talented, and well-liked junior associates we have seen in quite some time (and I have been here for 16 years, so I have worked with dozens of strong incoming associates).

Three things stand out most about Adina. First, she is an extraordinarily capable attorney, especially considering that she was wrapping up law school only two years ago. While there are understandable professional growing pains for attorneys transitioning into their first role, Adina has been a rare exception. I have worked closely with her on multiple matters, and it never ceases to amaze me how she performs as though she has been a practicing attorney for years. This shines through all facets of her work. For example, Adina's writing is crisp, to-the-point, and forceful. You know exactly what she means to convey and what the key points are. Likewise, many junior associates overlook how critically important the facts are to the cases we work on. Adina is the opposite. She gets it. Litigation starts with the facts, ends with the facts, and has the facts sandwiched in between. Adina seems to revel in plumbing for the facts in our cases—digging through documents, interviewing witnesses, reading between the lines of the opposition's discovery responses—instinctively understanding that whatever the law, the facts will drive outcomes of trial court litigation.

Second, Adina is noticeably poised and professional. On one matter she and I worked on together from its inception, Adina was present for all client meetings and witness interviews. Not just present, but a full participant. The client's in-house attorney with whom we worked most closely on the matter forgot multiple times that Adina was, at the time, a first-year associate. This was thanks to her maturity and sound judgment. It enabled me to allow Adina to work directly with the client without my close involvement at all steps of the way. I do not think I had ever given this kind of autonomy to a first-year associate. I certainly would not have trusted myself with such responsibility when I was at that stage in my career. Adina trusted herself—as she should have—and she showed eagerness to gain the experience, which is terrific.

Third, Adina is simply a wonderful person. Much of the personal rapport we establish with our colleagues has been best lost to the pandemic, as I am sure you have observed. And Adina spent a good chunk of law school remote. Same with our summer program and the start to her career. But Adina has managed to build strong relationships with so many of her colleagues—partners, associates, firm staff—despite this. She is endlessly affable, thoughtful, good-humored, and “real”—qualities in our co-workers that perhaps we have taken for granted in the past, but that stand out now because it has been difficult to get to know one another these past three years. Having been a happy member of an amazing clerkship family at the outset of my career (I clerked for The Honorable Naomi Reice Buchwald in 2003-04), I know the importance of chemistry in chambers. I have no doubt that Adina will be a fine addition to yours from this standpoint.

I could go on, and would be happy to should you care to hear more. Jenner has a proud and prodigious tradition of hiring judicial law clerks and encouraging associates who have not had the experience to try to gain it. Though I would be sad for Adina to leave us, I know that doing so would benefit her and our judiciary.

Sincerely,
Brian Fischer

Brian Fischer - bfischer@jenner.com - 6465288799

June 11, 2023

The Honorable Vernon Broderick
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 415
New York, NY 10007-1312

Dear Judge Broderick:

I write enthusiastically to recommend Adina Hemley-Bronstein, a recent graduate of Yale Law School who is applying for a clerkship in your chambers. Adina has the smarts, drive to deliver, and the cluster of social skills to make an excellent clerk.

I worked with Adina in two capacities in her third year of law school. She wrote paper on the evolution of the undue burden standard examining the ways that its application by (some) judges is sensitive to the ways that poverty can exacerbate the burden of abortion restrictions. She was forthright in reporting on the state of the law, yet at the same time demonstrated perseverance and creativity in finding whatever case law there was to find on point.

The research assistance she performed was also on reproductive justice themes. In the fall, when I was writing on *June Medical*, Adina tracked all district and circuit court opinions citing the decision and charted the debate over "Marks"-- the emerging circuit split regarding the precedential effect of Chief Justice Roberts's concurrence. During the spring semester, Adina worked with another student to prepare a memorandum identifying various equality arguments relevant to congressional debate of the Women's Health Protection Act (WHPA). This project required organizing a wide array of case law, statutory text, academic literature, and empirical scholarship to support five distinct equality arguments in favor of the WHPA. She worked to distill these complex legal arguments into succinct, accessible language appropriate for an audience of policymakers and practitioners. In this work she demonstrated that she has strong research skills and writes cleanly and effectively.

A few words about Adina's trajectory that seem relevant to reading her transcript. My understanding is that Adina was out of school for four years before law school. It seems that Adina took a bit of time to adapt to returning to school, and when she did she earned solid honors in her last year of law school. (Adina also mentioned that Professor Judith Resnik selected her final Federal Courts exam as one of ten to share with the class as a sample.)

Adina looks to the clerkship as a chance to gain mentorship and learn about litigation. I believe that Adina plans to go into private practice as a litigator before returning to some form of public interest practice.

I urge you to interview Adina for a position in your chambers. It has been my great pleasure to work with her this year and I believe that when you talk to her you will see in an instant how she would bring light and deep intelligence to your chambers. If I can be of assistance in your decision, please do not hesitate to email or call me on my cell at 203-668-6181.

Sincerely,

Reva Siegel

Reva Siegel - reva.siegel@yale.edu - 203-432-6791

June 12, 2023

The Honorable Vernon Broderick
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 415
New York, NY 10007-1312

Dear Judge Broderick:

Today is my birthday, but I come bearing a gift for you: Adina Hemley-Bronstein, Yale Law School Class of 2021, who is applying for a clerkship in your chambers. This year, I am recommending five very talented current Yale Law School students for clerkships—but Adina is hands down my top pick. She ranks with the five best students I have taught (several of whom clerked at the U.S. Supreme Court) in my over thirty years at Yale.

In the fall of 2020, Adina took my course “Advanced Legal Writing,” and she may be using one of the assignments as her writing sample. If so, her memo will show you all you need to know about how well she analyzes statutes and cases, applies the law to the facts, and crafts sentences. I have been giving this same memo assignment for several years, and again, Adina’s is among the very best, if not the best, memo on the topic that I have ever received. She richly deserved the Honors she earned as a final grade.

In the spring of 2021, when I taught an expanded version of the course, I asked Adina to be one of my teaching assistants. Her job was to confer with eight of the thirty-two students on their memos and a brief-revision exercise. One of her charges said that his time with her (nearly three hours) “was probably one of the most useful writing education experiences of my life. What a gift!” So Adina is not only an excellent legal writer, she also excels at improving other writers’ drafts. Those talents will make her a great clerk, co-clerk, and partner for you. What a gift!

And finally: Adina is a spectacular person: kind, considerate, generous, hard-working, and brilliant. I’m confident that if you interview her because of how she looks on paper, you will very likely offer her a clerkship because of how she is as a person. And if you do invite Adina to join your clerkship family, I promise you will be congratulating yourself for years to come that you decided to do so.

Sincerely,

Robert D. Harrison, J.D., Ph.D.

Robert Harrison - robert.harrison@yale.edu - 203-432-7647

ADINA HEMLEY-BRONSTEIN

228 Saint Johns Place | Brooklyn, NY 11217 | ahemleybronstein@gmail.com | (617) 304-7024

Writing Sample #1

I wrote the attached memorandum for “Advanced Legal Writing” taught by Professor Robert Harrison in Fall 2020 during my 3L year. Based on my performance on this assignment, Professor Harrison selected me to serve as a Teaching Assistant for his course and conduct individual writing conferences with second-year law students. This writing sample reflects my independent work.

MEMORANDUM

TO: Attorney Rob Harrison

FROM: Adina Hemley-Bronstein

DATE: November 7, 2020

RE: Applicability of Article 2 to Helio Contract

ISSUE

This memorandum analyzes whether Article 2 of the Illinois Commercial Code applies to a contract between our client Helio Turbo & Diesel AB (“Helio”) and American pharmaceutical company Novelo, Inc. (“Novelo”). Helio sold Novelo a diesel generator, engine, and auxiliary equipment (“diesel-generator set” or “Equipment”). The contract, as amended by a Contract Change Order (collectively, the “Agreement”), also required Helio to design, manufacture, deliver, and install the diesel-generator set. Novelo now seeks damages related to alleged Equipment defects. Article 2 governs “transactions in goods,” which include contracts either exclusively or predominantly for goods. Does Article 2 apply to this Agreement?

BRIEF ANSWER

The Agreement likely falls under Article 2 because the diesel-generator set is a “good” and because its sale forms the contract’s “predominant purpose.” First, the Equipment qualifies as a good because it was movable at the time of identification. Second, the Equipment sale forms the contract’s predominant purpose because the Agreement: (A) labels the parties “Purchaser” and “Seller”; (B) includes a warranty on the Equipment; (C) transfers title from Helio to Novelo; and (D) frames all services as necessary to supplying the diesel-generator set, which formed the “heart” of the deal.

STATEMENT OF ASSUMED FACTS

Our client Helio is a Swedish manufacturer of diesel generators. Helio entered the Agreement with Novelo to supply a diesel-generator set. Novelo Facts ¶ 24. The diesel-generator set would be the “principal equipment item” for a new cogeneration facility to power Novelo’s manufacturing plant in

Barceloneta, Puerto Rico. *Id.* ¶ 9. Novelo is now suing Helio for damages related to the Equipment that Helio supplied.

The Agreement, which referred to Novelo and Helio as “Purchaser” and “Seller” throughout the document, emphasized Helio’s “experience, capability, and expertise to design and fabricate generation equipment.” Agreement ¶ 1. Novelo corroborated that it selected Helio because Helio had “manufactured similar equipment” in the past. Novelo Facts ¶ 16. The Agreement required Helio to design, fabricate, test, deliver, and sell the diesel-generator set to Novelo. Agreement ¶ 2. It also required Helio to provide technical assistance during Novelo’s initial operation of the Equipment. *Id.* Although the Agreement originally required Novelo to install the Equipment, *id.* ¶ 8(a), a “Contract Change Order” amended the Agreement and obligated Helio “to install the diesel-generator set.” Novelo Facts ¶ 35. To design the Equipment, Helio would follow custom specifications, attend in-person design meetings, communicate monthly with Novelo’s Project Engineer, and consult Novelo about “all significant design options.” Agreement ¶ 4. While the Agreement required Helio to deliver the Equipment to Novelo’s factory, *id.* ¶ 6, it required Novelo to “obtain, at its expense, all necessary state and local permits.” *Id.* ¶ 8. Upon delivery, “[t]itle to the equipment” would pass to Novelo. *Id.* ¶ 6(d).

Under the Agreement, Helio warranted that the Equipment would “be free from defects in material, workmanship and design.” *Id.* ¶ 10(a). The warranty required Helio to replace or repair defective parts but did not extend to “defects in installations outside the equipment.” *Id.* ¶ 10(c). An addendum added that the “Contractor (i.e., Helio)” was responsible for the “trouble[-]free operation of the generator set.” Novelo Facts ¶ 26. Helio also agreed to provide twelve months of technical assistance between delivery and Novelo’s final acceptance of the Equipment. Agreement ¶ 8(d). The twelve months of assistance were “[i]ncluded in the price of the Equipment,” *id.*, which served as “total consideration” for both “Equipment and services.” *Id.* ¶ 3. The Agreement permitted Novelo to pay in installments. *Id.* For example, Novelo would pay a percentage of the total price when Helio submitted drawings and designs, completed “Engine Factory Testing,” and passed the “Equipment title” to Novelo. *Id.* The Agreement established that if Novelo terminated the contract, Novelo could “tak[e] title and possession of all

materials and all designs.” *Id.* ¶ 25. Novelo could also “tak[e] title to any . . . work in progress” if Helio breached the contract. *Id.* ¶ 27(a).

After Helio manufactured the diesel-generator set, Helio shipped the unassembled Equipment parts to Novelo’s factory. *Id.* ¶¶ 37-40; Agreement ¶ 3 (describing Helio’s “[d]elivery of crankshaft and rotor shaft to assembly location”). After delivery, Helio installed the diesel-generator set. *Id.* ¶ 40.

This memorandum analyzes whether Article 2 of the Illinois Commercial Code governs the Agreement.

APPLICABLE STATUTES

810 Ill. Comp. Stat. 5/2-102 (2020). Scope . . .

. . . [T]his Article applies to transactions in goods . . .

810 Ill. Comp. Stat. 5/2-103 (2020). Definitions . . .

(1)(a) “Buyer” means a person who buys or contracts to buy goods.

(1)(d) “Seller” means a person who sells or contracts to sell goods.

810 Ill. Comp. Stat. 5/2-105 (2020). Definitions . . .

(1) “Goods” means all things . . . which are movable at the time of identification to the contract for sale. . . .

(2) . . . Goods which are not both existing and identified are “future” goods. A purported present sale of future goods or of any interest therein operates as a contract to sell.

810 Ill. Comp. Stat. 5/2-106 (2020). Definitions . . .

(1) . . . “Contract for sale” includes both a present sale of goods and a contract to sell goods at a future time. A “sale” consists in the passing of title from the seller to the buyer for a price. . . .

810 Ill. Comp. Stat. 5/2-501 (2020). Insurable Interest in Goods; Manner and Identification of Goods

(1) . . . [I]dentification can be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement identification occurs

(a) when the contract is made if it is for the sale of goods already existing and identified;

(b) if the contract is for the sale of future goods . . . , when goods are shipped, marked or otherwise designated by the seller as goods to which the contract refers . . .

DISCUSSION

Article 2 will govern Helio and Novelo’s Agreement if (I) the Equipment satisfies Article 2’s definition of “goods,” and (II) the sale of goods, rather than the rendition of services, forms the Agreement’s “predominant purpose.”

I. Whether the Equipment is a “Good”

Article 2 only governs “transactions in goods.” 810 Ill. Comp. Stat. 5/2-102 (2020). It applies to both present and “future” goods, which are goods not yet “existing and identified.” *Id.* 5/2-105(2); *Pittsburgh-Des Moines Steel Co. v. Brookhaven Manor Water Co.*, 532 F.2d 572, 580 n.6 (7th Cir. 1976) (“Nor does the fact that the goods are not in existence at the time of the execution of the contract change their status as goods.”). Goods are “all things . . . movable at the time of identification.” 810 Ill. Comp. Stat. 5/2-105(1) (2020). In a contract for future goods, identification occurs “when goods are shipped, marked or otherwise designated by the seller as goods to which the contract refers.” *Id.* 5/2-501(b).

The diesel-generator set almost certainly constitutes goods under Article 2. The Agreement was a contract for future goods because it required Helio to “design and fabricate” objects that did not yet exist. Agreement ¶ 1. Therefore, identification occurred no later than when Helio “shipped” the Equipment to Novelo’s manufacturing plant. 810 Ill. Comp. Stat. 5/2-501(b) (2020). Because the diesel-generator set was capable of being “shipped,” it was necessarily “movable” at the time of identification and therefore is a good under Article 2.

Illinois courts have clarified that to satisfy the definition of Article 2 goods, items need only be “movable *at the time of identification*.” *Id.* 5/2-105(1) (emphasis added). Therefore, items qualify as movable goods even if they become immovable after assembly or installation. *Meeker v. Hamilton Grain Elevator Co.*, 442 N.E.2d 921, 923 (Ill. App. 1982) (pieces of heavy steel grain bins were movable goods, despite ultimately being “bolted to . . . concrete pads,” because identification occurred before assembly); *accord Bonebrake v. Cox*, 499 F.2d 951, 958 n.12 (8th Cir. 1974) (sections of bowling lanes were movable goods because identification occurred before installation).

Thus, the diesel-generator set qualifies as a good even if it became immovable once assembled or installed. Under the Agreement, Helio delivered unassembled components of the Equipment to Novelo's factory, much like the movable grain bin pieces and bowling lane sections in *Meeker* and *Bonebrake*. Agreement ¶ 3 (describing Helio's "[d]elivery of crankshaft and rotor shaft to assembly location"). As in *Meeker* and *Bonebrake*, the Equipment therefore qualifies as a good even if it became immovable once Helio installed it because it was movable at the time of identification.

II. Whether the Sale of Goods Forms the Agreement's "Predominant Purpose"

Helio not only sold Novelo the diesel-generator set but also agreed to design, manufacture, deliver, and install it. Agreement ¶¶ 4-8. Therefore, the Agreement involved both goods and services. Article 2 governs contracts that mix goods and services only if the sale of goods is the "predominant purpose." *Meeker*, 442 N.E.2d at 922. To determine a contract's "predominant purpose," Illinois courts apply the following test:

The test for inclusion or exclusion is not whether [the contracts] are mixed, but, granting that they are mixed, whether their predominant factor, their thrust, their purpose, reasonably stated, is the rendition of service, with goods incidentally involved . . . or is a transaction of sale, with labor incidentally involved . . .

Id. (quoting *Bonebrake*, 449 F.2d at 960). The predominant-purpose test is a holistic, fact-specific inquiry. *Bob Neiner Farms v. Hendrix*, 490 N.E.2d 257, 259 (Ill. App. 1986) (evaluating predominant purpose by "consider[ing] . . . all the facts"). Though no single factor is dispositive, Illinois courts frequently find that goods predominate in contracts that: (A) label the parties "Purchaser" and "Seller"; (B) include a warranty for materials defects; (C) transfer title in the equipment from seller to buyer; and (D) frame the goods as the "heart" of the agreement.

A. Party Terms

Illinois courts consistently hold that transactions are predominantly for goods where the contract labels the parties "purchaser" (or "buyer") and "seller." *Meeker*, 442 N.E.2d at 922-23. This inference aligns with Article 2's text, which includes definitions for "buyer" and "seller." 810 Ill. Comp. Stat. 5/2-103(1)(a), (d) (2020). In *Meeker*, the court concluded that a contract to build two grain bins was

predominantly for goods because it referred to the parties as “Purchaser” and “Seller.” 442 N.E.2d at 922-23. By contrast, in *Nitrin*, the court held that a contract to design and build an ammonia plant was predominantly for services, in part because “throughout the contract plaintiff [was] denominated ‘Owner’ not buyer, and defendant [was] denominated ‘Contractor’ not seller.” *Nitrin, Inc. v. Bethlehem Steel Corp.*, 342 N.E.2d 65, 78 (Ill. App. 1976); accord *Boddie v. Litton*, 455 N.E.2d 142, 145 (Ill. App. 1983) (contract was predominantly for services where the parties included “general contractor” and “subcontractor”); *J & R Elec. Div. of J.O. Mory Stores, Inc. v. Skoog Constr. Co.*, 348 N.E.2d 474, 475 (Ill. App. 1976) (contract was also predominantly for services where the parties included “contractor,” “subcontractor,” and “owner”).

Like the contract in *Meeker* and unlike the contracts in *Nitrin*, *Boddie*, and *J & R Electric*, the Agreement refers to Novelo and Helio as “Purchaser” and “Seller,” suggesting a contract predominantly for goods. See, e.g., Agreement ¶ 1. Admittedly, one line in an addendum refers to the “Contractor (i.e., Helio).” Novelo Facts ¶ 26. But the Agreement otherwise contains over 100 references to Helio as “Seller,” including in the Agreement’s opening paragraph and on 24 of the contract’s 30 pages. See Agreement ¶¶ 1-15, 25-31; Exhibits B, C. Given their prevalence and prominence, the terms “Seller” and “Purchaser” are persuasive evidence that goods constituted the predominant purpose of Helio’s contract with Novelo.

B. Warranty

When mixed contracts contain a warranty, Illinois courts applying the predominant-purpose test consider whether the warranty runs to the goods or to the services. *Tivoli Enters., Inc. v. Brunswick Bowling and Billiards Corp.*, 646 N.E.2d 943, 948 (Ill. App. 1995). In *Tivoli*, a contract for bowling lanes was predominantly for goods because it contained a warranty against “defects in materials and workmanship” that “[ran] to the goods” and not the services. *Id.*; accord *Bonebrake*, 499 F.2d at 958 (characterizing a warranty against “defects in workmanship and materials” as language “peculiar to goods, not services”). By contrast, *Nitrin* concluded that an ammonia plant contract was predominantly for services because the warranty applied not to any tangible materials but only to “field construction”

and “design work.” 342 N.E.2d at 68; *id.* at 72 n.5 (noting that the “guarantee of defect[-]free field workmanship applies only to construction work done at the . . . plant site”).

Like the contracts in *Tivoli* and *Bonebrake*, the Agreement is probably a contract predominantly for goods because the warranty runs to the Equipment, not to the services. Like the *Tivoli* and *Bonebrake* warranties against defects in “materials” and “workmanship,” the Agreement’s warranty establishes that the “Equipment will be free from defects in material, workmanship and design.” Agreement ¶ 10(a). And in contrast to the *Nitrin* warranty, which applied not to materials but only to “field construction,” the Agreement’s warranty covers “defective parts” but does not extend to defects “outside the equipment.” *Id.* ¶ 10(c). Therefore, the Agreement’s warranty provisions run to the Equipment and provide further proof of a contract predominantly for goods.

C. Title

Illinois courts have concluded that contracts are predominantly for goods when they transfer title from seller to buyer. *Meeker*, 442 N.E.2d at 924. This rule reflects Article 2’s definition of a “sale” as “the passing of title from the seller to the buyer for a price.” 810 Ill. Comp. Stat. 5/2-106(1) (2020). In *Meeker*, the grain bins contract was predominantly for goods where the contract stated that “title” would “remain in the Seller” until final payment. 442 N.E.2d at 924. By contrast, the *Nitrin* court held the ammonia plant contract predominantly for services because the defendant “never had title to any component part of the plant.” 342 N.E.2d at 595 (citing a contract provision that “title to all machinery and equipment and supplies . . . shall, as between Owner and Contractor, be in Owner”).

The Agreement repeatedly establishes that title to the Equipment will transfer from seller to purchaser, indicating, as in *Meeker*, a contract predominantly for goods. First, the Agreement provides that “Title to the Equipment will pass to Purchaser upon delivery.” Agreement ¶ 6(d). Second, the contract’s payment schedule identifies “Passage of Equipment title to Purchaser” as one of the payment milestones. *Id.* ¶ 3. Finally, the Agreement established that if Novelo terminated the contract or Helio breached, Novelo could “tak[e] title” to all materials, designs, and other work in progress. *Id.* ¶¶ 25(b)-(c), 27(a). Unlike the services contract in *Nitrin* where “title to all machinery and equipment” always

remained with one party, 342 N.E.2d at 595, title to the diesel-generator set began with Helio and would transfer to Novelo upon delivery of the Equipment or termination of the contract. These title transfer provisions indicate that the Agreement was likely a contract predominantly for the sale of goods.

D. Whether Goods Form the “Heart of the Agreement”

Illinois courts applying the predominant-purpose test distinguish “general construction contracts,” which are predominantly for services, from contracts that contain services but nonetheless are predominantly for goods. *Boddie*, 455 N.E.2d at 150. General construction contracts often require the seller or contractor, rather than the buyer, to prepare the worksite. *Id.* In *Boddie*, a contract for a mail conveyor system was a general construction contract because it required the contractor, not the purchaser, to install the foundation (“construct caissons”), build “lookout galleries,” and perform “extensive excavation and demolition.” *Id.* By contrast, in *Hendrix*, the court concluded that the agreement to build a farm shed was a contract for goods and “not a standard general construction contract *encompassing site preparation*.” N.E.2d at 259 (emphases added). In that case, the contract made the purchaser, not the builder, responsible for “obtaining necessary building permits” and “clearing and leveling” the worksite. *Id.*; accord *Pittsburgh-Des Moines Steel Co.*, 532 F.2d at 575 (water tank contract was predominantly for goods because it required the purchaser, not the seller, to buy land, build the foundation, and dig several wells).

The Agreement’s silence on site preparation suggests, as in *Hendrix*, a contract predominantly for goods. The Agreement never mentions purchasing land, “clearing” or “leveling” the worksite, or pouring foundation, which the *Boddie* and *Hendrix* courts associated with general construction contracts. Furthermore, the Agreement expressly obligates Novelo to “obtain . . . all necessary state and local permits,” which *Hendrix* cited as evidence of a contract predominantly for goods. Agreement ¶ 8(a).

However, courts have also identified individualized design work and installation of utilities as characteristics of general construction contracts. *Hendrix*, N.E.2d at 259. In *Hendrix*, the court determined that the agreement was not a general construction contract because the farm shed involved “non-creative, formula-like construction” rather than “detailed individual designing.” *Id.* (citing *Meeker*, 442 N.E.2d at

922-23). The court also noted that the agreement “specifically did not cover any electrical wiring, plumbing, [or] heating,” *id.* at 257, and therefore was not a “standard general construction contract encompassing . . . installation of services,” *id.* at 259. By contrast, the agreement to build a mail conveyor system in *Boddie* was a general construction contract because it required the contractor to connect “exterior utilities and services.” 455 N.E.2d at 150.

By these standards, the Agreement resembles a general construction contract predominantly for services because it required Helio both to custom-design and to install the Equipment. First, the Agreement required Helio not only to follow Novelo’s custom design specifications, but also to attend in-person design meetings, communicate monthly with Novelo’s Project Engineer, and consult Novelo about “all significant design options.” *Id.* ¶ 4. Thus, the diesel-generator set arose from a complex and individualized design process, far from the “non-creative, formula-like construction” involved in *Hendrix*. Second, although the original Agreement required Novelo to install the Equipment, *id.* ¶ 8(a), the Contract Change Order shifted responsibility to Helio “to install the diesel-generator set.” Novelo Facts ¶ 35. While installing the Equipment, Helio might also have set up electrical wiring, plumbing, heating, and other utilities. If so, then those added responsibilities, along with the individualized design work, could suggest that the Agreement was a general construction contract beyond the scope of Article 2.

But Illinois courts have concluded that even contracts involving design and installation are predominantly for goods where goods form the “heart” of the agreement. *Republic Steel Corp. v. Pa. Eng’g Corp.*, 785 F.2d 174, 181 (7th Cir. 1986). In *Republic Steel*, a contract for steel furnaces was predominantly for goods even though it required the seller to design, manufacture, and install the equipment. *Id.* at 176-77. The court reasoned that although the services were “substantial,” they all “led directly to the construction of the furnaces,” which formed “the heart of the Agreement.” *Id.* at 181. The court reached this conclusion after observing that the contract never mentioned services without also referring to the furnaces. For example, a fee provision referred to “compensation for all other services performed *and items supplied*.” *id.* at 180 (emphasis added). Another section obligated the manufacturer to arrange “all services necessary to erect and install the [*furnace*] vessels.” *Id.* at 181 (emphasis added).

Even though the Agreement bears some characteristics of a general construction contract, Article 2 likely applies because as in *Steel Republic*, the goods form the “heart” of the transaction. First, Novelo’s reasons for hiring Helio directly involve the Equipment: Helio had previously “manufactured similar equipment,” *id.* ¶16 (emphasis added), and therefore possessed the “experience, capability, and expertise to design and fabricate generation equipment.” *Id.* ¶ 1 (emphasis added). Second, Novelo itself identified the diesel-generator set as the “principal equipment item” needed for its new facility. *Id.* ¶¶ 8-9. Third, Helio’s obligation to provide technical assistance centers around the Equipment: Helio would provide assistance beginning with the delivery of the Equipment and ending upon Novelo’s acceptance. ¶ 8(d). Furthermore, the Agreement states that the technical assistance hours are part of the total “price of the Equipment,” which serves as “total consideration” for both “Equipment and services” alike. *Id.* ¶ 3. Fourth, even the payment milestones revolve around the Equipment: the Agreement required Novelo to make payments when Helio submitted drawings and designs, completed “Engine Factory Testing,” and passed “Equipment title” to Novelo. *Id.* As in *Steel Republic*, the contract involved substantial services that all “led directly to the construction” of the Equipment, which formed “the heart of the Agreement.” *Republic Steel*, 785 F.2d at 181. Therefore, Article 2 likely applies to the transaction between Helio and Novelo.

CONCLUSION

A court will probably conclude that the Agreement falls under Article 2 because the Equipment satisfies the definition of “goods” and because the sale of goods formed the contract’s predominant purpose.

First, the diesel-generator set qualifies as a “good.” Because the Agreement was a contract for future goods, identification occurred no later than when Helio shipped the Equipment. Thus, the Equipment was movable at the time of identification, which makes the Equipment a “good” even if it became immovable after assembly or installation.

Second, the Equipment sale formed the contract’s predominant purpose because the Agreement bears multiple characteristics that Illinois courts routinely recognize in contracts predominantly for goods.

The Agreement labels Novelo and Helio “Purchaser” and “Seller” consistently throughout the contract. It also includes a warranty for Equipment defects that runs to the goods and not the services. In addition, it establishes that title to the Equipment will begin with Helio and transfer to Novelo after delivery. Finally, even though the Agreement involves services often found in general construction contracts, those services all lead directly to the construction of the Equipment, which formed the “heart” of the Agreement. Therefore, the Agreement is most likely a contract predominantly for goods within the scope of Article 2.

Applicant Details

First Name	Connie
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Contact Phone Number	8325619303
Other Phone Number	2028169099

Applicant Education

BA/BS From	Dartmouth College
Date of BA/BS	June 2014
JD/LLB From	Columbia University School of Law
	http://www.law.columbia.edu
Date of JD/LLB	April 29, 2021
Class Rank	School does not rank
Law Review/Journal	Yes
Journal(s)	Columbia Human Rights Law Review
Moot Court Experience	Yes
Moot Court Name(s)	Harlan Fiske Stone Moot Court

Bar Admission

Admission(s)	District of Columbia
--------------	----------------------

Prior Judicial Experience

Judicial Internships/Externships **Yes**

Post-graduate Judicial Law Clerk **No**

Specialized Work Experience

Recommenders

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Kaplan, Carl
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This applicant has certified that all data entered in this profile and any application documents are true and correct.

Connie Lee
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June 12, 2023

The Hon. Vernon Broderick
United States District Court, Southern District of New York
40 Foley Square
New York, NY 10007

Dear Judge Broderick:

I am an alumna of Columbia Law School ('21) and a second-year associate at Gibson, Dunn & Crutcher in Washington, D.C. I write to apply for a clerkship in your chambers beginning in 2025. I became interested in clerking during my second year at Columbia, when I externed for the Hon. Raymond Lohier of the U.S. Court of Appeals for the Second Circuit and worked closely with his clerks. As part of my responsibilities, I researched and wrote bench memoranda, drafted judicial orders, and observed oral arguments. My externship was valuable, and I hope to gain more practice experience through a term clerkship.

At Columbia, I served as a Note Editor on the *Columbia Human Rights Law Review* and placed as a Semifinalist in the Harlan Fiske Stone Moot Court competition. In my time at Gibson Dunn, I have pushed myself to gain as much experience as I can. For a *pro bono* matter, I successfully researched, briefed, and argued an asylum case in immigration court on behalf of a young man from El Salvador. In a complex commercial case involving antitrust and trade secrets issues, I prepared witnesses for trial and took the lead on drafting the post-trial conclusions of law. I have researched and written briefs, legal memoranda, discovery motions, and government filings for matters across industries and practice areas, including in antitrust, white collar, securities, international trade, and complex commercial litigation.

I would be especially eager to clerk in the Southern District of New York, as I lived in Manhattan for three years during law school.

Please find my resume, transcript, and writing sample included in this application, along with letters of recommendation from Professors Kristen Underhill (kunderhill@cornell.edu), Emily Benfer (emily.benfer@law.gwu.edu), and (retired) Carl Kaplan (cskaplan@aol.com). As additional references, you may reach out to Professor Eric Talley (etalley@law.columbia.edu), Kristen Limarzi (klimarzi@gibsondunn.com), and Joseph West (jwest@gibsondunn.com).

Thank you for your consideration. Please let me know should you need additional information.

Best,
Connie Lee

CONNIE J. LEE

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EDUCATION

COLUMBIA LAW SCHOOL, New York, NY

J.D., received May 2021

Honors: Harlan Fiske Stone Scholar

Activities: Columbia Human Rights Law Review, Note Editor
Harlan Fiske Stone Moot Court, Semifinalist (2020-21)
Taiwanese Law and Culture Club, President

DARTMOUTH COLLEGE, Hanover, NH

B.A., *cum laude*, received June 2018

Major: Government, Philosophy

Activities: Dartmouth Parliamentary Debate, President
Department of Government, Research Assistant to Sonu Bedi (Spring 2018)

Study Abroad: Keble College, Oxford (Spring 2017) and LSE (Fall 2016)

EXPERIENCE

GIBSON, DUNN & CRUTCHER, LLP, Washington, D.C.

Associate Attorney

Oct 2021 – present

Summer Associate

Jun 2020 – July 2020

Practicing in the Litigation group across antitrust, white collar, securities, and commercial litigation matters. Researching and writing memos, trial and appellate briefs, discovery motions, government presentations and filings, direct and cross examination outlines, and conclusions of law in a variety of matters. Successfully briefed and argued an immigration case to win asylum for a pro bono client in November 2022. Currently part of a trial team for an ongoing antitrust litigation.

U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT, New York, NY

Extern for the Hon. Raymond J. Lohier

Jan 2020 – May 2020

Researched and wrote bench memos. Drafted summary orders for civil and criminal cases.

HAYNES AND BOONE, LLP, Houston, TX

Summer Associate

May 2019 – July 2019

Drafted sections of appellate briefs, responses to interrogatories and requests for production, and answers to potential questions for Fifth Circuit oral arguments. Researched and wrote memos for appellate, employment, environmental, and commercial litigation cases.

U.S. DEPARTMENT OF JUSTICE, Washington, D.C.

Intern in the Civil Rights Division

Jan 2017 – April 2017

Researched and wrote memos advising attorneys on Title VI cases. Drafted MOAs, MOUs, and settlements between DOJ and agencies under investigation. Created and presented a workshop for attorneys on interpreting statistical analysis in civil rights investigations.

LANGUAGE SKILLS: Mandarin Chinese (proficient; speaking)

INTERESTS: cooking; classical music and opera singing; travel photography



COLUMBIA UNIVERSITY OFFICIAL TRANSCRIPT

THIS OFFICIAL TRANSCRIPT HAS BEEN TRANSMITTED ELECTRONICALLY AND IS INTENDED SOLELY FOR THE RECIPIENT'S USE.

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Statement of Authenticity

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COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK

NAME: Connie Jean-Shah Lee
SSN#: XXX-XX-1499
SCHOOL: SCHOOL OF LAW

DEGREE(S) AWARDED: Juris Doctor (Doctor of Law) DATE AWARDED: May 19, 2021 PROGRAM: LAW

PROGRAM TITLE: LAW

SUBJECT COURSE TITLE NUMBER	POINTS	GRADE	SUBJECT COURSE TITLE NUMBER	POINTS	GRADE
HARLAN FISKE STONE SCHOLAR-FIRST YEAR ENDING MAY 19			Spring 2020		
HARLAN FISKE STONE SCHOLAR-SECOND YEAR ENDING MAY 20			Due to the COVID-19 pandemic, Mandatory Pass/Fail grading was in effect for all regular, full-term courses for the spring 2020 semester.		
HARLAN FISKE STONE SCHOLAR-THIRD YEAR ENDING MAY 21					
Mandatory Pro Bono, 40 Hours			L6683 WITH FAGAN, JEFFREY		
Fall 2018			Fall 2020		
LAW L 6101 CIVIL PROCEDURE	4.00	A-	LAW L 6169 LEGISLATION AND REGULATIO	4.00	CR
LAW L 6105 CONTRACTS	4.00	B+	LAW L 6293 ANTITRUST AND TRADE REGUL	3.00	CR
LAW L 6113 LEGAL METHODS	1.00	CR	LAW L 6655 HUMAN RIGHTS LAW REVIEW	0.00	CR
LAW L 6115 LEGAL PRACTICE WORKSHOP I	2.00	P	LAW L 6664 EXTERNSHIP:FED APPELLATE	1.00	CR
LAW L 6118 TORTS	4.00	A	LAW L 6664 EXT:FED APPELLATE CRT-FLDWRK	3.00	CR
Spring 2019			LAW L 6683 SUPERVISED RESEARCH PAPER	2.00	CR
LAW L 6108 CRIMINAL LAW	3.00	B+	L6683 WITH FAGAN, JEFFREY		
LAW L 6116 PROPERTY (FOUNDATION)	4.00	A-	Fall 2020		
LAW L 6121 LEGAL PRACTICE WSHOP II	1.00	P	LAW L 6231 CORPORATIONS	4.00	A-
LAW L 6130 LEGAL METHODS II	1.00	CR	LAW L 6238 CRIMINAL ADJUDICATION	3.00	A-
LAW L 6133 CONSTITUTIONAL LAW	4.00	A-	LAW L 6274 PROFESSIONAL RESPONSIBILI	3.00	A-
LAW L 6256 FEDERAL INCOME TAXATION	4.00	B	LAW L 6655 HUMAN RIGHTS LAW REVIEW	1.00	CR
LAW L 6679 FOUNDATION YEAR MOOT COUR	0.00	CR	LAW L 6663 EXTERNSHIP: CRIMINAL APPE	2.00	A
Fall 2019			LAW L 6663 EXTERNSHIP: CRIMINAL APPE	2.00	CR
LAW L 6358 HEALTH JUSTICE ADVOCACY C	7.00	A-	LAW L 6680 HARLAN F. STONE HON COMPE	0.00	CR
LAW L 6425 FEDERAL COURTS	4.00	A-	Spring 2021		
LAW L 6655 HUMAN RIGHTS LAW REVIEW	0.00	CR	LAW L 6241 EVIDENCE	4.00	A-
LAW L 6675 MAJOR WRITING CREDIT	0.00	CR	LAW L 6276 HUMAN RIGHTS	3.00	A-
LAW L 6683 SUPERVISED RESEARCH PAPER	1.00	CR	LAW L 6355 HEALTH LAW	4.00	A
LAW L 8452 ENERGY REGULATION	2.00	A-	LAW L 6655 HUMAN RIGHTS LAW REVIEW	1.00	CR
L6683 WITH FAGAN, JEFFREY					

This official transcript was produced on
SEPTEMBER 21, 2022.



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IN THE CITY OF NEW YORK

Barry S. Kane

Barry S. Kane
Associate Vice President and University Registrar

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SEAL OF COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK

Columbia College, Engineering and Applied Science, General Studies, Graduate School of Arts and Sciences, International and Public Affairs, Library Service, Human Nutrition, Nursing, Occupational Therapy, Physical Therapy, Professional Studies, Special Studies Program, Summer Session
A, B, C, D, F (excellent, good, fair, poor, failing). NOTE: Plus and minus signs and the grades of **P** (pass) and **HP** (high pass) are used in some schools. The grade of **D** is not used in Graduate Nursing, Occupational Therapy, and Physical Therapy.

American Language Program, Center for Psychoanalytic Training and Research, Journalism

P (pass), **F** (failing). Grades of **A, B, C, D, P** (pass), **F** (failing) — used for some offerings from the American Language Program Spring 2009 and thereafter.

Architecture

HP (high pass), **P** (pass), **LP** (low pass), **F** (failing), and **A, B, C, D, F** — used June 1991 and thereafter **P** (pass), **F** (failing) — used prior to June 1991.

Arts

P (pass), **LP** (low pass), **F** (fail). **H** (honors) used prior to June 2015.

Business

H (honors), **HP** (high pass), **P1** (pass), **LP** (low pass), **P** (unweighted pass), **F** (failing); plus (+) and minus (-) used for **H, HP** and **P1** grades Summer 2010 and thereafter.

College of Physicians and Surgeons

H (honors), **HP** (high pass), **P** (pass), **F** (failing).

College of Dental Medicine

H (honors), **P** (pass), **F** (failing).

Law

A through **C** [plus (+) and minus (-) with **A** and **B** only], **CR** (credit - equivalent to passing), **F** (failing) is used beginning with the class which entered Fall 1994. Some offerings are graded by **HP** (high pass), **P** (pass), **LP** (low pass), **F** (failing). **W** (withdrawn) signifies that the student was permitted to drop a course, for which he or she had been officially registered, after the close of the Law School's official Change of Program (add/drop) period. It carries no connotation of quality of student performance, nor is it considered in the calculation of academic honors.
E (excellent), **VG** (very good), **G** (good), **P** (pass), **U** (unsatisfactory), **CR** (credit) used from 1970 through the class which entered in Fall 1993.

Any student in the Law School's Juris Doctor program may, at any time, request that he or she be graded on the basis of Credit-Fail. In such event, the student's performance in every offering is graded in accordance with the standards outlined in the school's bulletin, but recorded on the transcript as Credit-Fail. A student electing the Credit-Fail option may revoke it at any time prior to graduation and receive or request a copy of his or her transcript with grades recorded in accordance with the policy outlined in the school bulletin. In all cases, the transcript received or requested by the student shall show, on a cumulative basis, all of the grades of the student presented in single format — i.e., all grades shall be in accordance with those set forth in the school bulletin, or all grades shall be stated as Credit or Fail.

Public Health

A, B, C, D, F - used Summer 1985 and thereafter. **H** (honors), **P** (pass), **F** (failing) — used prior to Summer 1985.

Social Work

E (excellent), **VG** (very good), **G** (good), **MP** (minimum pass), **F** (failing).

A though **C** is used beginning with the class which entered Fall 1997. Plus signs used with **B** and **C** only, while minus signs are used with all letter grades. The grade of **P** (pass) is given only for select classes.

OTHER GRADES USED IN THE UNIVERSITY

AB = Excused absence from final examination.

AR = Administrative Referral awarded temporarily if a final grade cannot be determined without additional information.

AU = Audit (auditing division only).

CP = Credit Pending. Assigned in graduate courses which regularly involve research projects extending beyond the end of the term. Until such time as a passing or failing grade is assigned, satisfactory progress is implied.

F* = Course dropped unofficially.

IN = Work Incomplete.

MU = Make-Up. Student has the privilege of taking a second final examination.

R = For the Business School: Indicates satisfactory completion of courses taken as part of an exchange program and earns academic credit.

R = For Columbia College: The grade given for course taken for no academic credit, or notation given for internship.

R = For the Graduate School of Arts and Sciences: By prior agreement, only a portion of total course work completed. Program determines academic credit.

R = For the School of International and Public Affairs: The grade given for a course taken for no academic credit.

UW = Unofficial Withdrawal.

UW = For the College of Physicians and Surgeons: Indicates significant attempted coursework which the student does not have the opportunity to complete as listed due to required repetition or withdrawal.

W = Withdrew from course.

YC = Year Course. Assigned at the end of the first term of a year course. A single grade for the entire course is given upon completion of the second term. Until such time as a passing or failing grade is assigned, satisfactory progress is implied.

OTHER INFORMATION

NOTE: All students who cross-register into other schools of the University are graded in the **A, B, C, D, F** grading system regardless of the grading system of their own school, except in the schools of Arts (prior to Spring 1993) and in Journalism (prior to Autumn 1992), in which the grades of **P** (pass) and **F** (failing) were assigned. Notations at the end of a term provide documentation of the type of separation from the University.

% of A Effective fall 1996: Transcripts of Columbia College students show the percentage of grades in the **A (A+, A, A-)** range in all classes with at least 12 grades, the mark of **R** excluded. Calculations are taken at two points in time, three weeks after the last final examination of the term and three weeks after the last final of the next term. Once taken, the percentage is final even if grades change or if grades are submitted after the calculation. For additional information about the grading policy of the Faculty of Columbia College, consult the College Bulletin.

KEY TO COURSE LISTINGS

A course listing consists of an area, a capital letter(s) (denotes school bulletin) and the four digit course number (see below).

The **capital letter** indicates the University school, division, or affiliate offering the course:

A	Graduate School of Architecture, Planning, and Preservation
B	School of Business
BC	Barnard College
C	Columbia College
D	College of Dental Medicine
E	School of Engineering and Applied Science
F	School of General Studies
G	Graduate School of Arts and Sciences
H	Reid Hall (Paris)
J	Graduate School of Journalism
K	School of Library Services/Continuing Education (effective Fall 2002)
L	School of Law
M	College of Physicians and Surgeons, Institute of Human Nutrition, Program in Occupational Therapy, Program in Physical Therapy, Psychoanalytic Training and Research
N	School of Nursing

O	Other Universities or Affiliates/Auditing
P	School of Public Health
Q	Computer Technology/Applications
R	School of the Arts
S	Summer Session
T	School of Social Work
TA-TZ	Teachers College
U	School of International and Public Affairs
V	Interschool Course
W	Interfaculty Course
Y	Teachers College
Z	American Language Program

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The **first digit** of the course number indicates the level of the course, as follows:

0	Course that cannot be credited toward any degree
1	Undergraduate course
3	Undergraduate course, advanced
4	Graduate course open to qualified undergraduates
5	Graduate course open to qualified undergraduates
6	Graduate course
7	Graduate course
8	Graduate course, advanced
9	Graduate research course or seminar

Note: Level Designations Prior to 1961:

1-99 Undergraduate courses
100-299 Lower division graduate courses
300-999 Upper division graduate courses

The term designations are as follows:
X=Autumn Term, **Y**=Spring Term, **S**=Summer Term
Notations at the end of a term provide documentation of the type of separation from the University.

THE ABOVE INFORMATION REFLECTS GRADING SYSTEMS IN USE SINCE SPRING 1982. THE CUMULATIVE INDEX, IF SHOWN, DOES NOT REFLECT COURSES TAKEN BEFORE SPRING OF 1982. ALL TRANSCRIPTS ISSUED FROM THIS OFFICE ARE OFFICIAL DOCUMENTS. TRANSCRIPTS ARE PRINTED ON TAMPER-PROOF PAPER, ELIMINATING THE NEED FOR SIGNATURES AND STAMPS ON THE BACK OF ENVELOPES. FOR CERTIFICATION PURPOSES, A REPRODUCED COPY OF THIS RECORD SHALL NOT BE VALID. THE HEAT-SENSITIVE STRIP, LOCATED ON THE BOTTOM EDGE OF THE FACE OF THE TRANSCRIPT, WILL CHANGE FROM BLUE TO CLEAR WHEN HEAT OR PRESSURE IS APPLIED. A BLUE SIGNATURE ALSO ACCOMPANIES THE UNIVERSITY SEAL ON THE FACE OF THE TRANSCRIPT.

DARTMOUTH COLLEGE

This certifies that Connie J. Lee was admitted to Dartmouth College in Fall Term 2014 to the Class of 2018 as a candidate for the degree of Bachelor of Arts.

Meredith H. Braz, Registrar

Issued on December 24, 2018

Major: Government Complete.

Major: Philosophy Complete.

Student Status: A.B. awarded June 10, 2018. cum Laude.

Second Honor Group 2016-2017

Third Honor Group 2015-2016



Meredith H. Braz

Term	Course	Course Title	Enr.	Med.	CC.	Gr.	Cit.	Term	Course	Course Title	Enr.	Med.	CC.	Gr.	Cit.
ADV	ENVS002	College Board Adv Placement	0			CR		16X	ASTR003	Exploring Universe wLab	64	[B+]	1	A-	
	GEOG001	College Board Adv Placement	0			CR			PHIL027	Philosophy of Science	18	[A]	1	A	
	HIST000	College Board Adv Placement	0			CR			PHIL09.01	Reproductive Ethics	32	[A-]	1	A	
	MATH003	College Board Adv Placement	0			CR			T.Avg.	3.89	Cum. Avg.	3.70	Cum.CC.	22	
	MATH008	College Board Adv Placement	0			CR		Dartmouth Foreign Study Program							
	MATH010	College Board Adv Placement	0			CR		London							
	T.Avg.	0.00	Cum. Avg.	0.00	Cum.CC.	0		16F	GOVT091	London F S P	18	[A-]	1	A	
14F	ECON001	The Price System	47	[B]	1	B			GOVT092	London F S P	18	[A-]	1	A-	
	GOVT003	American Political System	55	[B+]	1	A			GOVT90.01	London FSP	18	[A]	1	A	
	THEA030	Acting I	18	[A]	1	A			T.Avg.	3.89	Cum. Avg.	3.72	Cum.CC.	25	
	T.Avg.	3.67	Cum. Avg.	3.67	Cum.CC.	3		Exchange Program							
15W	ECON021	Microeconomics	58	[B+]	1	B+		17S	Keble College						
	PBPL005	Intro to Public Policy	77	[B+]	1	A-			GOVT000	Classical Political Thought			1	TR	
	WRIT005	Expository Writing	15	[A-]	1	A			GOVT000	British Pol and Govt			1	TR	
	T.Avg.	3.67	Cum. Avg.	3.67	Cum.CC.	6			T.Avg.	.00	Cum. Avg.	3.72	Cum.CC.	27	
15S	ECON022	Macroeconomics	62	[B]	1	B-		17F	GOVT64.01	Liberalism and its Critics	34	[B+]	1	A	
	GOVT005	International Politics	47	[B+]	1	A			PBPL085	Topics Glob Pol Leadership	12	[A]	1	A	
	HIST07.21	New Deal and Its Critics	16	[A-]	1	A			PHIL011	Ancient Greek & Roman Phil	24	[A-/B+]	1	A-	
	T.Avg.	3.56	Cum. Avg.	3.63	Cum.CC.	9			T.Avg.	3.89	Cum. Avg.	3.74	Cum.CC.	30	
15F	EARS006	Environmental Change	171	[A-]	1	B+		18W	GOVT86.18	Contemp Readings on Justice	12	[A-]	1	A	
	HIST053	WWII:Ideology,Exper,Legacy	35	[B+]	1	B+			GRK 01.02	Intensive Greek			1	B	
	PHIL01.03	Intro to Philosophy & Econ	30	[A-/B+]	1	A			GRK 03.02	Intensive Greek			1	B	
	T.Avg.	3.56	Cum. Avg.	3.61	Cum.CC.	12			T.Avg.	3.33	Cum. Avg.	3.70	Cum.CC.	33	
16W	CLST001	Intro. to Classical Studies	154	[A-]	1	A		18S	PHIL006	Logic and Language	20	[A]	1	A	
	GOVT063	Origins of Political Thought	19	[A-]	1	A-			PHIL19.02	Transcendental Philosophy	26	[A-]	1	A-	
	GOVT50.04	War and Peace	28	[B+]	1	A-			PHIL80.20	Controversies Feminist PHIL	17	[A-]	1	A	
	T.Avg.	3.78	Cum. Avg.	3.64	Cum.CC.	15			T.Avg.	3.89	Cum. Avg.	3.72	Cum.CC.	36	
16S	PHIL026	Philosophy and Computers	29	[A-]	1	A		Courses which exceeded the median grade: 16 Courses which equaled the median grade: 13 Courses below the median grade: 3 Courses taken eligible for this comparison: 32							
	PHIL036	Metaethics	15	[A]	1	B+									
	PHIL31.05	Time, Truth and Fate	21	[A-]	1	A-									
	REL 49.01	ApocalypticThought inE Asia	11	[A]	1	A									
	T.Avg.	3.75	Cum. Avg.	3.67	Cum.CC.	19									

DARTMOUTH COLLEGE

Connie J. Lee	Dartmouth College Transcript	Page 2	Meredith H. Braz, Registrar	Issued on December 24, 2018
END OF RECORD			 <i>Meredith H. Braz</i>	



Dartmouth Hall, built 1784

DARTMOUTH COLLEGE

DARTMOUTH COLLEGE



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Statement of Credits

This record is for a student who was registered Fall 1985 or later. All courses are in the form of course units. In 2018 the course count unit was adjusted to better reflect actual equivalency. Each course count unit may be considered the equivalent of a semester course worth 3.5 semester hours (4.5 if a laboratory course) or 5 quarter hours (6.7 if a laboratory course).

EXPLANATION OF UNDERGRADUATE RECORD

Admission to Dartmouth College is based upon approval of the entire record of preparation and not solely upon units that have been recorded. Student Status is indicated as: Active, Graduated, Resigned, Separated, Suspended or Withdrawn. The normal course load is three but, within specified limits, loads of two or four courses are allowed. Terms are identified by the last two digits of the calendar year followed by F for Fall, W for Winter, S for Spring, X for Summer, or ADV for Advanced Placement credits and exemptions.

Column Headings		Course Numbering and Level	
Class of 1987 and prior classes	Additional headings for the Class of 1998 and later	1-9	Primarily Introductory Level Courses
GR Grade Received	ENR Course Enrollment	10-79	Primarily General Course Offerings
CC Course Count	MED Median Grade for course	80-89	Certain Special Types of Courses
CIT Citation	Median grades are not calculated for courses with fewer than ten students or for classes earlier than 1998	90-99	Certain Advanced Undergraduate Major Courses
		100-299	Graduate Level Courses
Explanation of Honors		Departmental Honors:	
Honors in Awarding of the Degree: Awarding of honors for the Bachelor of Arts degree is based on the cumulative averages of the past three years' graduates.		Honors: Honors Program completed with a minimum average of B+ in the courses of the Honors Program.	
Summa cum Laude Top 5% Magna cum Laude Top 15% Cum Laude Top 35%		High Honors: Honors Program completed and by vote of the department on the basis of outstanding independent work.	
Grades and Points		Course Count Requirement for Degree	
A 4	AD ① Administrative Delay-Temporary Designation	1972-87	33
A- 3 2/3	CR ③ Credit on Entrance for class of 2018 and later; ② for class of 2017 and prior	1988 to present	35
B+ 3 1/3	CT ① Credit for Dartmouth course (Credit/No Credit Option)		
B 3	EX ③ Exemption		
B- 2 2/3	I ① Incomplete-Temporary Designation		
C+ 2 1/3	NC ③ No Course Credit (Credit/No Credit Option)		
C 2	NR ② Non-Recording Option		
C- 1 2/3	ON ① On-going Course		
D 1	TR ② Transferred Course		
E 0	W Withdrawn from Course		
	* Citation		
Other Designations		Key for Other Designations	
		①	Not used in computing grade point average
		②	Course credit only. (Not used in computing grade point average)
		③	No course credit
		#	Course credit only. (Not used in computing grade point average)
		*	Citation for meritorious performance

EXPLANATION OF GRADUATE RECORD

HP High Pass	Superior quality	Graduate students enrolled in undergraduate courses are graded on the undergraduate grading system.
P Pass	Good quality	
LP Low Pass	Acceptable quality	
NC No Credit	Work that is not acceptable for graduate credit	
CT Credit	Satisfactory work in certain courses; such as research courses, that assignment of a grade of HP, P and LP is considered inappropriate. The grade of CT is not intended as a routine alternative to the HP, P, LP system. CT is the <i>only</i> passing grade in a course in which it is used.	

June 12, 2023

RE: The Application of Connie Lee for a Clerkship

To Whom It May Concern:

I write to provide this letter of recommendation on behalf of Connie Lee for a clerkship position in your chambers. Currently, I am a tenured Associate Professor of Clinical Law and the Director of the Health Equity Policy & Advocacy Clinic at George Washington University Law School. Prior to joining the George Washington University law faculty, I served as a visiting clinical professor of law and the founding director of the Health Justice Advocacy Clinic at Columbia Law School. It was in this latter capacity that I came to know Ms. Lee.

During her second year of law school, I selected Ms. Lee out of a highly competitive pool of applicants to enroll as a student attorney in the Health Justice Advocacy Clinic (Clinic) for the Spring 2019 semester. In the Clinic, law and public health students collaborate to address health equity among low-income populations. The Clinic emphasizes skill development in the areas of legal research, legislative analysis, interprofessional collaboration, and advocacy before decisionmakers. During the Spring 2019 semester, the Clinic represented the National Housing Law Project in the effort to advance two federal bills. Ms. Lee served on a team of four law and two public health students who assessed the legal problem, conducted a literature review and stakeholder interviews, proposed legislative fixes, created “leave behind” advocacy materials, and held meetings with congressional staffers in the U.S. Senate and House of Representatives. Ms. Lee was highly regarded by her peers and a collegial and contributing member of the team. During the staffer meetings in Washington, D.C., she was highly professional, well organized, and delivered concise and compelling arguments in favor of her client’s interests. The success of the advocacy reflected her skills in a setting beyond the typical law school classroom.

After successfully completing the clinic, I invited Ms. Lee to join a team of students who assisted with the real time tracking of state and local eviction moratoria during the COVID-19 pandemic. Ms. Lee completed a training on state and local policy mapping and analysis and was assigned to monitor Missouri, Idaho, and Nevada. Due to the rapidly changing landscape of pandemic-era policy and constant inquiries from policy makers and the media, this research required daily surveillance, timely research, and absolute accuracy. Ms. Lee was responsible for identifying and analyzing dozens of judicial orders, legislation, and emergency orders at the state, county, and municipal levels. In addition to compiling the research, she synthesized it into accessible summaries for non-legal audiences.

During the summer of 2020, Ms. Lee asked to participate in the moratoria project on a *pro bono* basis, even though funding was available, solely because of her desire to use her legal research skills to assist people in need during the pandemic. I understand that Ms. Lee has kept up an ethic of public service through pro bono work at her current job at Gibson Dunn.

It was a delight to have Ms. Lee in the Clinic and on the moratoria project. I came to know her as a highly driven and academically inquisitive student with research and writing skills that will make her a successful clerk. I am confident that she will bring her skills and commitment to this position and make an excellent judicial clerk.

Sincerely,

Emily Benfer
Associate Professor of Clinical Law
Director, Health Equity Policy & Advocacy Clinic

June 11, 2023

The Honorable Vernon Broderick
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 415
New York, NY 10007-1312

Dear Judge Broderick:

I'm delighted to write in support of a clerkship for Connie J. Lee, a former student of mine at Columbia Law School. She would be an outstanding clerk and I recommend her enthusiastically and without reservation.

I recently retired – after a 23-years stint (!) – as a senior appellate counsel at the Center for Appellate Litigation. CAL is a Manhattan-based public appellate defender organization that represents poor people from the Bronx and Manhattan on criminal appeals before New York State courts, in particular the Appellate Division, First Department, and the Court of Appeals. I continue to work on cases for CAL on a volunteer basis. I also recently retired as a lecturer-in-law at Columbia Law School – after more than a dozen years. I founded, designed, and up to January 2021 co-taught an externship program there in criminal appeals. I received a JD from Columbia (Stone Scholar) in 1994 and a B.A., magna cum laude, from Amherst in 1976.

Connie was one of six students in our externship in the fall of '20. I got to know her quite well. As part of the externship, she actively participated in a weekly two-hour academic seminar. In addition, outside the classroom I directly supervised her on nearly a biweekly basis from September '20 until the end of December '20 as she, along with a student partner, took on an actual criminal appeal for a client who had been convicted of attempted first-degree murder and sentenced to 15 to life.

Connie's appeal would have been challenging for any experienced lawyer. Our client, Mr. Washington, was essentially accused of falsely calling in a Chinese food delivery order, waiting in an apartment stairwell for the delivery man, Mr. Zhu Xing, to arrive, and then springing upon Mr. Zhu with a knife – chasing and swinging the knife at him and poking and cutting him until he dropped the take-out bag of food. After that, Mr. Washington scooped up the dropped food and exited. Happily, the victim's wounds were all superficial and he was released from hospital after a few hours.

The People's theory, which prevailed at trial, was that in the course of a robbery Mr. Washington had the separate intent to kill the food delivery man and almost accomplished that task. In her work on the brief, Connie and her partner had to distill a compelling and accurate Statement of Facts narrative from the facts and exhibits elicited at trial. Connie drafted and polished Point I of the brief, which argued that the verdict was against the weight of the evidence, i.e., that based on all the circumstances, the evidence did not support the conclusion that Mr. Washington had an intent to kill when he superficially cut the food deliveryman to get him to drop the food.

In the course of her work on the appeal, Connie successfully performed many difficult tasks that were perhaps new to her. For example, she digested the appellate record; spotted fruitful legal issues and rejected marginal ones; corresponded with our client; researched the law; drafted a legal issue memo; outlined and drafted sections of the appellate brief, and then re-drafted them in light of our discussions and my written comments. She also engaged in mock appellate arguments in class.

It was a delight to work with Connie! I found her to be mentally sharp, energetic, enterprising, well-organized, and responsible. She made every deadline and at every turn was eager to do more than I had asked of her.

One other thing I'd like to mention: She told me that when she first read the facts of our case, she had some difficulty with the nature of the crime – at a time when crimes against Asian-Americans in New York City were disproportionately high, the unprovoked assault against a Chinese delivery driver “felt close to home,” she said. But she also told me that she deeply believes every person has the right to zealous legal representation. I watched with pride as she grew into her role as a strong advocate for our client within the law.

I think I am in an excellent position to comment, as well, on the quality of Connie's writing and legal research, for she made many efforts in that area under my criticisms. In short, Connie's legal writing is outstanding. I say that not just as an experienced appellate counsel but also as a former newspaper reporter, editor, and columnist. She is capable of writing a simple declarative sentence – no small thing. In our class and in our editorial sessions I emphasized that good legal writers write simply and concisely, emphasize nouns and verbs, and strive to be clear. Connie's appeals brief drafts were excellent in their clarity and force. Her research and legal reasoning skills are excellent, too. I rate her as an outstanding young lawyer, and I graded her accordingly. In fact, here's my nutshell “final performance evaluation” of her for Columbia, which I penned in December 2020: “This is an exceptionally strong student. Outstanding legal research/analysis; outstanding writer and advocate; outstanding++ oral advocacy. I rely on her to do heavy lifting. Shows initiative. She is amazing!”

I am quite confident she would do very, very well in a judicial clerkship.

Sincerely,

Carl S. Kaplan

Senior Appellate Counsel, Center for Appellate Litigation (Ret.)

Carl Kaplan - cskaplan@aol.com

Lecturer-in-Law, Columbia Law School (Ret.)

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Cornell Law School

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June 19, 2023

Re: Connie Lee, Application for Clerkship

Dear Judge:

I am very pleased to recommend Connie Lee for a clerkship in your chambers. I met Connie in the fall of 2018, when she enrolled as a 1L student in my Torts class at Columbia Law School. I subsequently worked with Connie as a 3L student in my Health Law course in 2021, and we had an opportunity to work as coauthors on a paper with some professors we know in common at Brown University. Connie is tremendously bright, meticulous, thoughtful, and talented, and she will be a standout addition to any group of clerks.

Connie's classroom and exam performance in both Torts and Health Law was exemplary. She was unfailingly prepared for cold calls and a reliable source of astute questions and comments in open classroom discussions on tort and health policy. From the start in Torts, she showed a strong interest in the social implications of legal rules, and her office hour questions in were relevant and showed genuine engagement and curiosity in this area of the law. I learned early in Connie's law school career that she had an interest in Health Law, and we connected over the next few years on the topic as she forwarded me news articles of interest. When Connie signed up for Health Law in the spring of 2021, the world had changed. We were on Zoom, rather than in person, and we had many fewer opportunities to interact; Connie, however, was as engaged and lively on Zoom as she was in person, and she showed the same productive interest in exploring and mastering our course material.

Connie's marks easily reflected her in-class performance, and she achieved two A marks despite a very strict curve in both classes. In my course of 106 Torts students that year, both of Connie's policy essays received best-in-class marks for the exam. I still use one of Connie's policy essays as a model for my current 1Ls to teach in-depth policy critique and prepare them for exams. Connie's two exam essays focused on public nuisance doctrine and adjustments to the reasonable person standard, and both showed a great capacity to draw connections across different course materials, cases, and tort doctrines to build a persuasive argument. Her Health Law essays concerned maternal mortality and religious exemptions to health care nondiscrimination laws, and both were similarly among the highest marks in the class of 51 students. Connie's analytic and written communication skills are superb, and they will serve her (and her judge) well in a clerkship.

Notably, Connie's issue spotter work in both exams also showed the highest caliber accuracy, organization, and performance under pressure. Both of my exams required two-hour issue spotters with a barrage of issues, each eligible for 3-4 points for accurate identification, analysis, and inclusion of a supportive case citation. Connie had the fifth-highest performance on the issue spotter portion of the exam, with 475 total points, reflecting her analysis of 148 separate issues in the allotted time. Connie's skills particularly stood out in tricky issues on municipal liability, proximate causation, wrongful death, and thoughtful uses of tort defenses. In Health Law, Connie was the very top performer in the issue spotter portion of the exam, resolving 132 issues and outperforming the next students by a margin of more than 20 points. As in Torts, Connie's issue spotter work in the Health Law exam showed an excellent grasp of the most difficult issues, including ERISA claims preemption, federal fraud and abuse statutes,

and allocating liability across different persons and corporate actors in health care institutions. To achieve these marks, Connie needed complete mastery of the doctrines in both courses, keen attention to situational facts, and easy access (by memory or by good organization) to appropriate case law support drawn from course materials. Her skills are impeccable, and again will serve her well as a clerk.

Finally, I have found Connie to be collegial, a well-respected and well-liked presence among her peers, professional and deferential in our interactions, and extremely hardworking. I was delighted to have a chance to work with her on a coauthored piece published in Critical Public Health, a peer-reviewed public health journal, and she was a professional and diligent collaborator in that work. I think Connie will be a memorably outstanding and helpful clerk, and I am delighted to support her candidacy.

Thank you for considering Connie's application, and I would be pleased to speak about her more by phone if it would be helpful.

Sincerely,



Kristen Underhill, DPhil, JD



The following writing sample is the main part of the “Legal Argument” section of a brief that I wrote for an asylum case in immigration court in Annandale, Virginia and filed in June 2022. The names of the individuals mentioned in this brief have been replaced with their initials for confidentiality, and I have omitted sections of the original argument arguing for alternative grounds for asylum in order to condense the sample. This sample has not been edited by others.

In this case, I represented E., a young man who fled El Salvador at the age of 14 after receiving repeated threats from members of the gang Mara Salvatrucha, known as “MS-13.” These threats came after E.’s paternal half-brother, J., began affiliating with local members of MS-13 but dissociated upon realizing that MS-13 required its members to commit a murder for initiation. J. led four others to defect from MS-13 and reaffiliate with rival gang Barrio 18 in the hopes that Barrio 18 would protect them from retaliation from MS-13. MS-13 sought retaliation against J. and began to threaten E. Tragically, J. was eventually killed by MS-13, but E. fled to the United States.

The section below argues that E. suffered persecution at the hands of MS-13, and that the persecution had a nexus to his familial relationship with J., which constitutes membership in a particular social group for the purpose of asylum. The merits hearing for E.’s case was held in November 2022, and E. was granted asylum in a written decision issued in February 2023.

Legal Argument

E. qualifies for asylum based on the past persecution he has faced at the hands of MS-13, and based on his well-founded fear of future persecution if he is forced to return to El Salvador. This persecution is on account of his membership in multiple qualifying particular social groups. It is also on account of a political opinion imputed to him by MS-13.

a. Legal standard

To qualify for asylum, an applicant must: (1) be physically present in the United States, 8 U.S.C. § 1158(a)(1); (2) establish that he is a “refugee,” as defined by the Immigration and Nationality Act (“INA”), *see id.* § 1158(b)(1)(A)–(B); (3) demonstrate that he merits a grant of asylum as an exercise of the discretion; and (4) demonstrate that he is not statutorily barred from receiving asylum, *see* 8 C.F.R. § 208.13(c). E. is physically present in the United States and lives in Alexandria, Virginia. No statutory bars to asylum apply in his case. This briefing will focus on elements (2) and (3).

As defined by the INA, a “refugee” is a person who is “unable or unwilling to return” to their country of nationality because of either past persecution *or* a well-founded fear of future persecution. INA § 101(a)(42)(A); 8 C.F.R. § 208.13(b)(1); *Cordova v. Holder*, 759 F.3d 332, 337 (4th Cir. 2014). The persecution—past or future—must be on account of the person’s race, religion, nationality, political opinion, or membership in a particular social group. INA § 101(a)(42)(A).

The Board of Immigration Appeals (“BIA”) has defined persecution as “the infliction of harm or suffering by a government, or person a government is unwilling or unable to control, to overcome a characteristic of the victim.” *Matter of Kasinga*, 21 I. & N. Dec. 357,

365 (BIA 1996). In the Fourth Circuit, threats of injury or death can establish past persecution even without actual physical harm. *Portillo Flores v. Garland*, 3 F.4th 615, 627 (4th Cir. 2021); *Mirisawo v. Holder*, 599 F.3d 391, 396 (4th Cir. 2010). Nor does there need to be one significant act of persecution. Instead, the INA considers “the cumulative effect of the allegedly persecutory incidents. Thus, even though each instance of mistreatment, when considered alone, may not amount to persecution, the record may still compel a finding of past persecution when considered as a whole.” *De Santamaria v. U.S. Atty. Gen.*, 525 F.3d 999, 1008 (11th Cir. 2008).

The Fourth Circuit has recognized that qualifying “threats need not be made directly to the petitioner” to amount to persecution. *Portillo Flores*, 3 F.4th at 628. “Violence or threats to one’s close relatives is an important factor in deciding whether mistreatment sinks to the level of persecution.” *Baharon v. Holder*, 588 F.3d 228, 232 (4th Cir. 2009). Finally, the age and perception of the asylum seeker is taken into account, especially if the persecution was experienced in childhood. *Portillo Flores*, 3 F.4th at 628. Circumstances that might not amount to past persecution for an adult could constitute persecution for a child. *Id.* Here, E. was only 14 years old when MS-13 members armed with guns and machetes threatened him and his family members. Ex. B ¶ 6, Ex. C ¶ 11. The standard for past persecution must be adjusted for his age at the time. *Portillo Flores*, 3 F.4th at 628. This standard is sufficiently met by the threats of death and injury that E. and his family members faced—including the threats that E. and his grandfather experienced, and the actual death of his half-brother J..

If an applicant has established the existence of past persecution, he is presumed to have a well-founded fear of future persecution. 8 C.F.R. § 208.13(b)(1). A well-founded

fear of future persecution may also be established independently by showing “both [1] a genuine subjective fear of persecution and [2] that ‘a reasonable person in like circumstances would fear persecution.’” *Crespin-Valladares v. Holder*, 632 F.3d 117, 126 (4th Cir. 2011) (quoting *Chen v. INS*, 195 F.3d 198, 201–02 (4th Cir. 1999)). “[A]n alien need only show that his removal would create a ‘reasonable possibility’—as low as a ten percent chance—of persecution.” *Id.* An objective fear of future persecution is established through the four-part test upheld in *Matter of Mogharrabi*, 19 I. & N. 439, 446 (BIA 1987): “(1) the alien possesses a belief or characteristic a persecutor seeks to overcome in others by means of punishment of some sort; (2) the persecutor is already aware, or could easily become aware, that the alien possesses this belief or characteristic; (3) the persecutor has the capability of punishing the alien; and (4) the persecutor has the inclination to punish the alien.”

The applicant must also show that at least “one central reason for the persecution” is on account of a protected ground. *Cordova*, 759 F.3d at 337. The protected ground does not need to be “the central reason or even a dominant central reason for his persecution.” *Crespin*, 632 F.3d at 127. One cognizable protected ground is an applicant’s membership in a “particular social group.” *See id.* “There is no statutory definition of ‘particular social group,’ but the [BIA] has defined “particular social group” to include three criteria: (1) its members share common, immutable characteristics, (2) the group is “socially distinct,” and (3) the group is defined with sufficient particularity to delimit its membership. *See, e.g., Matter of W-G-R-*, 26 I. & N. 208, 217 (BIA 2014); *Cordova*, 759 F.3d at 337; *Martinez v. Holder*, 740 F.3d 902, 910 (4th Cir. 2014). The “social distinction” element considers whether the group’s home society “recognize[s] that group as being a ‘distinct’ and identifiable group.” *Amaya v. Rosen*, 986 F.3d 424, 433 (4th Cir. 2021). The “particularity”

requirement, by contrast, asks whether the group has “definable boundaries” of who is in and out of the group, regardless of whether this delimitation is socially identified. *Id.* at 429.

Political opinion is another protected ground. 8 U.S.C. § 1101(a)(42)(A). This includes political opinions that are imputed by persecutors, even if they are not actually held by the petitioner. *See Alvarez Lagos v. Barr*, 927 F.3d 236, 251 (4th Cir. 2019). The Fourth Circuit has recognized that this standard can be met when a gang imputes an “anti-gang political opinion” onto a person, which becomes “a central reason for likely persecution.” *Id.* (holding that a petitioner’s “failure to comply” with the demands of a gang could be “seen by [the gang] as a direct challenge to its efforts to establish and maintain political domination,” creating sufficient grounds for persecution based on an imputed political opinion).

E. meets the requirements for asylum based on multiple protected grounds. A list is included as Exhibit A. Each independent ground is analyzed below, and analysis may be cross-applied when appropriate.

b. E. faces persecution as a member of the particular social group of nuclear family members of J.

E. is a nuclear family member of J.; specifically, they are paternal half-brothers. This particular social group meets the requirements for a protected ground, and E. faced persecution by members of MS-13 because of his membership in the group.

Particular Social Group. First, members of this group share a common and immutable characteristic: each member is a nuclear family member of J., the individual whom MS-13 viewed as a leader among a group of defectors and subsequently targeted and killed. It is impossible for E. to change his family relationship with J. or leave this group.

Courts consistently hold that family membership “qualifies as a protected ground for asylum purposes.” *Hernandez-Avalos v. Lynch*, 784 F.3d 944, 949 (4th Cir. 2015). In fact, “every circuit to have considered the question has held that family ties can provide a basis for asylum.” *Crespin*, 632 F.3d 117 at 125. *See also Matter of L-E-A- III*, 28 I. & N. Dec. 304, 304–05 (A.G. 2021) (restoring the holding from *Matter of L-E-A- I*, 27 I. & N. Dec. 40, 42 (BIA 2017) that family membership may constitute a “particular social group” for asylum eligibility).

Second, the group meets the social distinction requirement. “Social groups based on innate characteristics such as...family relationship[s] are generally easily recognizable and understood by others to constitute social groups,” thus serving as a “prototypical example of a particular social group.” *Id.* at 125–26 (internal citations and quotation marks removed). Family is recognized as “the fundamental basis of society” by the Salvadoran Constitution and defined as a “permanent social group, constituted by marriage, non-matrimonial union, or kinship.” Ex. J-1, Dr. Thomas Boerman, *Family as a Social Construct in El Salvador, Honduras, and Guatemala: Visibility and Vulnerability of Individuals Targeted by Organized Criminal Groups* (“Boerman Briefing”) 1–2. Because family members often live in the same household, conduct the same family-based business, and engaged with the community as a family unit, family relationships are highly visible and recognizable in Central American society. *See id.*

Social distinction is especially clear in this case. MS-13 investigated the nature of E.’s family relationship with J. by asking other people in the community. *See* Ex. B ¶ 6; Ex. C ¶ 12. They were able to find out that E. and J. were half-brothers because others perceived the family as a distinct unit. Indeed, Salvadoran gangs often investigate the family

relationships of their targets and persecute those close relatives too. *See* Ex. J-3, UNHCR Eligibility Guidelines (“UNHCR Guidelines”) at 33. MS-13 demonstrated that E.’s family relationship was socially distinct by threatening E. in public settings in order to find his half-brother.

Third, a group based on family ties is “defined with sufficient particularity to delimit its membership,” because nuclear family relationships create a natural and inflexible point of limitation. *Cordova*, 759 F.3d at 337. E.’s nuclear family relationship with J. is inflexibly delimited. E. and J.’s brotherhood is established by paternity, and others may not take on that status or any degree of it.

Nexus. E.’s nuclear family relationship to J. was one central reason for the past persecution that he faced at the hands of MS-13. Indeed, part of MS-13’s modus operandi is to target family members of their adversaries. MS-13 members “predictably harass, threaten, harm, and kill” family members of targets “to coerce information on the location of the targeted individual or to harm the family members as proxies for the targeted person.” Ex. J-1, Boerman Briefing at 12. This is so common that, oftentimes, “the threat to family members is greater than to the initial target.” *Id.*

In E.’s case, MS-13 specifically investigated the nature of his family relationship to J.. Ex. B ¶ 6. Once MS-13 learned that E. was J.’s half-brother, the gang publicly harassed and threatened E. with weapons on multiple occasions, each time making reference to J.. Ex. B ¶ 7, Ex. C ¶ 12. E.’s experience is similar to the facts of *Portillo Flores*, 3 F.4th at 627. In *Portillo Flores*, MS-13 members harassed the petitioner on multiple occasions, each time asking about his sister’s whereabouts. *Id.* E. was similarly threatened by MS-13 members

who asked about J.’s whereabouts each time. Ex. B ¶ 7, Ex. C ¶ 12. The Fourth Circuit has consistently held that a family relationship has sufficient nexus to past persecution when it constitutes the reason why the petitioner, and not another person, is targeted. *See, e.g., Hernandez-Avalos*, 784 F.3d at 950 (“Hernandez’s relationship to her son is why she, and not another person, was threatened with death...”); *Zavaleta-Policiano v. Sessions*, 873 F.3d 241, 250 (4th Cir. 2017) (similar); *Cruz v. Sessions*, 853 F.3d 122, 129 (4th Cir. 2017), *as amended* (Mar. 14, 2017) (finding that although other people could theoretically have been targeted for information on claimant’s husband’s whereabouts, claimant experienced “ongoing threats” “in at least one central respect” because of her family relationship to her husband).

Past Persecution. The threats and harassment that E. experienced because of his nuclear family relationship with J. amounts to past persecution. As discussed in the Statement of Facts and in Exhibits B and C, E. was repeatedly threatened with death and injury by armed members of MS-13 who were looking for J. E.’s grandfather was similarly threatened by MS-13, and J. was ultimately murdered by the gang. *See* Ex. B ¶ 7–8, 11; Ex. C. ¶ 12–13, 17. The combined effect of the mistreatment suffered by E. and his family amounts to a sufficient level of “[v]iolence or threats” to an individual and/or his “close relatives” to meet the standard for persecution. *Baharon*, 588 F.3d at 232.

“Unwilling and Unable to Control.” It is beyond dispute that the Salvadoran government was, and remains, “unwilling or unable to control” MS-13. El Salvador has been one of the most violent countries in the world for the past several years. *See* Ex. J-2, Affidavit of Eric Hershberg (“Hershberg Aff.”) ¶ 7; Ex. J-4, Declaration of Elizabeth Kennedy (“Kennedy Decl.”) ¶ 8. On a single day in March of this year, 62 Salvadorans were

killed in a wave of gang violence. Ex. J-2, Hershberg Aff. ¶ 8; Ex. J-5, New York Times, *Explosion of Gang Violence Grips El Salvador*. The astronomical homicide rate demonstrates that gangs are simply more powerful than government security forces in many parts of El Salvador, including in Usulután. The police are outnumbered by organized crime in both manpower and in financial resources. See Kennedy Decl. ¶ 15. MS-13 in El Salvador collaborates with drug cartels in Mexico and gangs in Honduras and Guatemala to tap into large operating revenues and weapons stockpiles, creating a far more robust security apparatus than the Salvadoran police can combat. See *id.* ¶ 18. The average Salvadoran prison is at almost 300 percent capacity. *Id.* ¶ 19. Top government officials admit that they lack control over gang territories. See Hershberg Decl. ¶ 22 (quoting the spokesman of the Patrolman’s Union of the National Police, who publicly admitted, “The authorities don’t have control of the territories.”) Police even “collaborate with gangs and engage in criminal activity.” See Kennedy Decl. ¶ 21. Police officers and soldiers have been known to participate in extortion, physical abuse, and even murder on behalf of gangs, in exchange for monetary compensation or power. See *id.*

In E.’s community, police often avoided the neighborhood or cooperated with the gangs, such as by informing on people who made police reports. See Ex. C ¶ 4. E. was threatened by armed MS-13 members in multiple public settings, demonstrating the government’s inability to control the gang. In one incident, gang members stopped and boarded a public bus and intimidated E. with guns and machetes to interrogate him about J.’s whereabouts. See Ex. B ¶ 8; Ex. C ¶ 12. J. was eventually murdered by MS-13 members in public in broad daylight. See Ex. B ¶ 11; Ex. C ¶ 17. The police did not take actions to prevent these incidents, and MS-13 members continued to threaten E.’s family members even

after J.'s death. *See* Ex. C ¶ 19–20. Although three men were later arrested in connection with J.'s death, *see* Ex. G, E. and his grandparents do not believe these men were the actual perpetrators of J.'s murder. MS-13 will often send less valuable members or other people entirely to “take the fall” for actual perpetrators. Furthermore, E. and his family were consistently threatened by many different gang members; the arrest of three potential MS-13 members does little to protect E. from persecution. *See generally* Ex. B; Ex. C.

Fear of Future Persecution. E.'s experience of past persecution creates the presumption that he has a well-founded fear of future persecution. *See* 8 C.F.R. § 208.13(b)(1). E. also meets the independent factors for having a well-founded fear of future persecution, as his fear is both subjectively and objectively reasonable. *See id.* Subjectively, E. fears that MS-13 will try to kill him if he returns to El Salvador. Ex. B ¶ 15. E. fled from El Salvador because he experienced repeated death threats from MS-13, who sent armed members to stalk him in public settings and at his home. *See* Ex. B ¶ 7–8, 10. He grew up in a neighborhood caught in the crosshairs of gang warfare. *See* Ex. B ¶ 2. His half-brother J. was murdered by MS-13 in broad daylight, and his body was left in the street for public spectacle. Ex. B ¶ 11. E. knows from his grandparents that MS-13 members continued to ask about E.'s whereabouts and directly threatened to kill him if he returns, unless he joins the gang. *See* Ex. B ¶ 15. E.'s adolescence was shaped by the danger of persecution by MS-13, a threat which forced him to leave school and hide at his grandparents' house at all times. *See* Ex. B ¶ 9. He was only able to resume a safe and normal life after he escaped to the United States—attending and graduating from high school, and working and spending time outside of the home. *See* Ex. B ¶ 13–14.

E.'s fear of future persecution is objectively reasonable under *Matter of Mogharrabi*,

19 I. & N. at 446. First, E. possesses a characteristic that his persecutors seek to overcome through punishment. He is a nuclear family member of J., and MS-13 seeks to punish him with injury or death for J.'s grave betrayal of the gang. Salvadoran gangs prize their reputation of power, and any dissidence or betrayal of the gang is met with "lethal reprisal" to send a public message. Ex. J-2, Hershberg Aff. ¶ 29. Gangs respond to perceived disrespect by "exacting revenge, typically by murdering their adversaries and members of their adversaries' families." *Id.*, see also Ex. J-3, UNHCR Guidelines at 12–13 ("Persons who resist the authority of the local gang or who even just inadvertently cross it, . . . are reportedly subjected to swift and brutal retaliation from the gang. Not only are such persons killed by the gangs but their family members are often targeted as well."). These well-documented practices are corroborated by the threats that E.'s grandfather received from MS-13 for his role in harboring J. in the family home, for his knowledge about the circumstances of J.'s death, and for his family relationship to J.. See Ex. C ¶ 20.

Second, MS-13 is aware or could easily become aware that E. is a nuclear family of J.. The gang already knows that E. and J. are half-brothers; they spent time investigating this fact in 2013. See Ex. B ¶ 6–7. Salvadoran gangs, including MS-13, "pass down knowledge of their enemies" to maintain an institutional knowledge base of targets. Ex. J-2, Hershberg Aff. ¶ 84. Even though time has passed since E. left El Salvador and J. was murdered, gangs take pains to ensure that their "death threats are never neutralized." *Id.* Excusing old targets would "convey a message that if enough time passes, the threat will dissipate and the gang will let you go on with your life"—a narrative that would "undermine the very strategy upon which gangs operate." Ex. J-1, Boerman Briefing at 11. MS-13 members continued to visit E.'s grandparents years after E. left the country to ask about E.'s whereabouts, showing that

they maintained an interest in his relationship to J.. Ex. C ¶ 22.

Third, MS-13 has the capability to punish E.. This is clear from the fact that they murdered J., C., and M. for the predicate events that E. now fears retaliation over. MS-13 has sent gang members outnumbering E. and his family to intimidate them on multiple occasions, even once sending six men just to threaten his grandfather. Ex. C ¶ 20. The police are known to either ignore criminal activity or even enable and join it in E.'s neighborhood. *See* Ex. C ¶ 4; Ex. J-4, Kennedy Decl. ¶ 15, 21; Ex. J-2, Hershberg Aff. ¶ 22. If E. were to return to El Salvador, he has no roots outside of his home village and no experience living in the country as an adult. *See* Ex. B ¶ 16, Ex. C ¶ 25. Were he to return to his grandparents' house, MS-13 would easily locate him and identify him as J.'s half-brother. But even if E. were to restart his life in a different part of El Salvador, the threat from MS-13 would remain just as salient. MS-13 has members all over El Salvador and the rest of Central America, and gangs can learn where a target has relocated through far-reaching communication networks. *See* Ex. J-2, Hershberg Aff. ¶ 83. *Clicas*, or individual gang cells, communicate across one another to ensure that targets can never move to a "safe" area. *See* Ex. J-1, Boerman Briefing at 11. Relocation can even "further anger the gangs" by demonstrating "insubordination," which can provoke violent retaliation. Ex. J-2, Hershberg Aff. ¶ 85. Experts agree that moving to a different part of El Salvador is not a realistic solution once someone has been identified and targeted as the family member of a dissident to the gang. *See id.* ¶ 83–85, Ex. J-1, Boerman Briefing at 11.

Fourth, MS-13 has sufficient motivation to punish E. J. committed a severe act of disrespect against the gang: not only defecting himself, but inducing four others to defect with him. *See* Ex. B ¶ 3; Ex. J-2, Hershberg Aff. ¶ 57 (characterizing desertion as a "major

transgression” warranting an “automatic death penalty” in the eyes of Salvadoran gangs). As discussed earlier, Salvadoran gangs violently punish dissidents and their family members in order to create a “pervasive atmosphere of fear” and exert “social control over the population of their territories.” Ex. J-3, UNHCR Guidelines at 12. This strategy “often involves pursuing loved ones after the targeted individual has been murdered, an attempt to ‘punish them in the grave.’” Ex. J-1, Boerman Briefing at 12 (emphasizing as an example that, even after “gangs have killed their intended targets, they often attack the wakes and funerals held by their relatives.”)

E. is not only the closest family link to J., but he also participated in “disrespecting” the gang’s authority by lying to MS-13 members about J.’s whereabouts and hiding out with J. in their grandparents’ home. *See* Ex. B ¶ 8–9. Salvadoran gangs consider any act of “resist[ance] to the[ir] authority” as dissidence, and E. resisted them on multiple occasions by intentionally lying to protect a target. Ex. J-2, Hershberg Aff. ¶ 29; Ex. B ¶ 8. Furthermore, MS-13 members have already threatened E.’s grandfather over his knowledge of J.’s murder. Ex. C ¶ 20. Because three MS-13 members were arrested by police for J.’s murder, *see* Ex. G, MS-13 has even more reason to kill E. to prevent him from going to the police (even if the police would not be able to protect him from the gang anyway). For all of these reasons, MS-13 will be inclined to punish E. if he is forced to return to El Salvador.

E. is a member of the particular social group of nuclear family members of J. Because of his membership in this group, he has faced past persecution, and has a well-founded fear of future persecution, that the government was and remains unwilling and unable to control. For these reasons, he should be granted asylum.

c. Discretionary factors weigh in favor of granting asylum.

Discretion weighs all relevant factors that favor granting an eligible asylum applicant's request against any factors opposing such an exercise of discretion. *See* 8 C.F.R. § 208.14(a) (2015); *Zuh v. Mukasey*, 547 F.3d 504, 506–07 (4th Cir. 2008).

In E.'s case, there are no adverse discretionary factors. E. is a soft-spoken, resilient, and extremely hard-working young man who persevered through the murder of his brother and repeated threats to his life and his family members' lives by MS-13. He refused to affiliate with MS-13 or Barrio 18 even as his half-brother, cousin, and friends were persuaded by the gang's influence and power. *See* Ex. B ¶ 4. After arriving in the United States, E. studied hard in school and adjusted quickly to his new home in Virginia. He earned a Student of the Week award at TC Williams High School in Alexandria, Virginia for his "perfect attendance" and enthusiasm for learning. E. graduated high school in 2018 on time at age 18—a major accomplishment considering that he had to not only adapt to a new environment and catch up on the schooling he missed in El Salvador while hiding from MS-13, but learn an entirely new language to do so. *See id.* ¶ 14. E. now speaks English proficiently and works two jobs, six days a week to financially support himself and save money for his future. *Id.* He currently lives with his mother, stepfather, and two younger half-siblings, all of whom are delighted to be reunited with him and have him safe from MS-13. *Id.* ¶ 13.

The danger that E. faces if he returns to El Salvador is clear. Before E. came to the United States, he lived in constant fear of MS-13 and could not even go outside or attend school and church without facing death threats. E. has persevered through the trauma of his

adolescence to build a safe, stable, and happy life in the United States. Forced removal would be an enormous loss, both to E.'s safety and to all who know and love him here.

Conclusion

E. fled El Salvador as a teenager because he was repeatedly threatened, harassed, and intimidated by members of MS-13 who sought information about, and revenge for, his half-brother's betrayal of the gang. E.'s half-brother J. was not only a defector who attempted to switch his allegiance to rival gang Barrio 18, but a ringleader among the four other young men who joined him. MS-13 murdered J. for his act of betrayal and continued to hunt for E. even years after these events.

E. qualifies for asylum based on multiple protected grounds. Most importantly, he is the nuclear family member of J. Norberto Hernandez Acevedo, whom MS-13 viewed as an important target. E. faced past persecution by MS-13 because of this status and will face future persecution if he is forced to return. Neither relocation within the country nor turning to police will alleviate the dangers that E. faces.

In El Salvador, E. spent all of his time hiding at his grandparents house from MS-13, unable to go outside without facing threats on his life. Now living in Virginia, E. has blossomed into a hardworking and polite young man who loves his family and works hard at multiple jobs to save up for a bright future in the United States. For all of the foregoing reasons, we urge that E.'s asylum application is granted.